

107-171 - Farm Security and Rural Investment Act of 2002

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[As Amended Through P.L. 115–334, Enacted December 20, 2018]

【Currency: This publication is a compilation of the text of Public Law 107–171. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

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SECTION 1. [7 U.S.C. 7901 note] SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Farm Security and Rural Investment Act of 2002”.

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TITLE I—COMMODITY PROGRAMS

SEC. 1001. [7 U.S.C. 7901] DEFINITIONS.

In this title (other than subtitle C):

(1) **AGRICULTURAL ACT OF 1949.**—The term “Agricultural Act of 1949” means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 171 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301).

(2) **BASE ACRES.**—The term “base acres”, with respect to a covered commodity on a farm, means the number of acres established under section 1101 with respect to the covered commodity on the election made by the owner of the farm under subsection (a) of such section.

(3) **COUNTER-CYCLICAL PAYMENT.**—The term “counter-cyclical payment” means a payment made to producers on a farm under section 1104.

(4) **COVERED COMMODITY.**—The term “covered commodity” means wheat, corn, grain sorghum, barley, oats, upland cotton, rice, soybeans, and other oilseeds.

(5) **DIRECT PAYMENT.**—The term “direct payment” means a payment made to producers on a farm under section 1103.

(6) **EFFECTIVE PRICE.**—The term “effective price”, with respect to a covered commodity for a crop year, means the price calculated by the Secretary under section 1104 to determine whether counter-cyclical payments are required to be made for that crop year.

(7) **EXTRA LONG STAPLE COTTON.**—The term “extra long staple cotton” means cotton that—

(A) is produced from pure strain varieties of the *Barbadense* species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(8) LOAN COMMODITY.—The term “loan commodity” means wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, rice, soybeans, other oilseeds, wool, mohair, honey, dry peas, lentils, and small chickpeas.

(9) OTHER OILSEED.—The term “other oilseed” means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, or, if designated by the Secretary, another oilseed.

(10) PAYMENT ACRES.—The term “payment acres” means 85 percent of the base acres of a covered commodity on a farm, as established under section 1101, on which direct payments and counter-cyclical payments are made.

(11) PAYMENT YIELD.—

(A) IN GENERAL.—The term “payment yield” means the yield established under section 1102 for a farm for a covered commodity.

(B) UPDATED PAYMENT YIELD.—The term “updated payment yield” means the payment yield elected by the owner of a farm under section 1102(e) to be used in calculating the counter-cyclical payments for the farm.

(12) PRODUCER.—The term “producer” means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this title.

(13) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(14) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(15) TARGET PRICE.—The term “target price” means the price per bushel (or other appropriate unit in the case of upland cotton, rice, and other oilseeds) of a covered commodity used to determine the payment rate for counter-cyclical payments.

(16) UNITED STATES.—The term “United States”, when used in a geographical sense, means all of the States.

Subtitle A—Direct Payments and Counter-Cyclical Payments

SEC. 1101. [7 U.S.C. 7911] ESTABLISHMENT OF BASE ACRES AND PAYMENT ACRES FOR A FARM.

(a) ELECTION BY OWNER OF BASE ACRES CALCULATION METHOD.—

(1) ALTERNATIVE CALCULATION METHODS.—For the purpose of making direct payments and counter-cyclical payments with respect to a farm, the Secretary shall give an owner of the farm an opportunity to elect 1 of the following as the method by which the base acres of all covered commodities on the farm are to be determined:

(A) Subject to paragraphs (3) and (4), the 4-year average of the following:

(i) Acreage planted on the farm to covered commodities for harvest, grazing, haying, silage, or other similar purposes for the 1998 through 2001 crop years.

(ii) Any acreage on the farm that the producers were prevented from planting during the 1998 through 2001 crop years to covered commodities because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary.

(B) Subject to paragraph (3), the sum of the following:

(i) The contract acreage (as defined in section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202)) used by the Secretary to calculate the fiscal year 2002 payment authorized under section 114 of such Act (7 U.S.C. 7214) for the covered commodities on the farm.

(ii) The 4-year average of eligible oilseed acreage on the farm for the 1998 through 2001 crop years, as determined by the Secretary under paragraph (2).

(2) ELIGIBLE OILSEED ACREAGE.—

(A) CALCULATION.—For purposes of paragraph (1)(B)(ii), the eligible acreage for each oilseed on a farm during each of the 1998 through 2001 crop years shall be determined in the manner provided in paragraph (1)(A), except that the total acreage for all oilseeds on the farm for a crop year may not exceed the difference between—

(i) the total acreage determined under paragraph (1)(A) for all covered commodities for that crop year; and

(ii) the total contract acreage determined under paragraph (1)(B)(i).

(B) EFFECT OF NEGATIVE NUMBER.—If the subtraction performed under subparagraph (A) results in a negative number, the eligible oilseed acreage on the farm for that crop year shall be zero for purposes of determining the 4-year average.

(C) OFFSET OF CONTRACT ACREAGE.—The owner of a farm may increase the eligible acreage for an oilseed on the farm by reducing the contract acreage determined under paragraph (1)(B)(i) for 1 or more covered commodities on an acre-for-acre basis, except that the total base acreage for each oilseed on the farm may not exceed the 4-year average of each oilseed determined under paragraph (1)(B)(ii).

(3) INCLUSION OF ALL 4 YEARS IN AVERAGE.—For the purpose of determining a 4-year acreage average under this sub-

section for a farm, the Secretary shall not exclude any crop year in which a covered commodity was not planted.

(4) TREATMENT OF MULTIPLE PLANTING OR PREVENTED PLANTING.—For the purpose of determining under paragraph (1)(A) the acreage on a farm that producers planted or were prevented from planting during the 1998 through 2001 crop years to covered commodities, if the acreage that was planted or prevented from being planted was devoted to another covered commodity in the same crop year (other than a covered commodity produced under an established practice of double cropping), the owner may elect the commodity to be used for that crop year in determining the 4-year average, but may not include both the initial commodity and the subsequent commodity.

(b) SINGLE ELECTION; TIME FOR ELECTION.—

(1) NOTICE OF ELECTION OPPORTUNITY.—As soon as practicable after the date of enactment of this Act, the Secretary shall provide notice to owners of farms regarding their opportunity to make the election described in subsection (a). The notice shall include the following:

(A) Notice that the opportunity of an owner to make the election is being provided only once.

(B) Information regarding the manner in which the election must be made and the time periods and manner in which notice of the election must be submitted to the Secretary.

(2) ELECTION DEADLINE.—Within the time period and in the manner prescribed pursuant to paragraph (1), the owner of a farm shall submit to the Secretary notice of the election made by the owner under subsection (a).

(c) EFFECT OF FAILURE TO MAKE ELECTION.—If the owner of a farm fails to make the election under subsection (a) or fails to timely notify the Secretary of the election made, as required by subsection (b), the owner shall be deemed to have made the election described in subsection (a)(1)(B) to determine base acres for all covered commodities on the farm.

(d) APPLICATION OF ELECTION TO ALL COVERED COMMODITIES.—The election made under subparagraph (A) or (B) of subsection (a)(1), or deemed to be made under subsection (c), with respect to a farm shall apply to all of the covered commodities on the farm.

(e) TREATMENT OF CONSERVATION RESERVE CONTRACT ACREAGE.—

(1) IN GENERAL.—The Secretary shall provide for an adjustment, as appropriate, in the base acres for covered commodities for a farm whenever either of the following circumstances occurs:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary.

(2) SPECIAL PAYMENT RULES.—For the crop year in which a base acres adjustment under paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(f) PAYMENT ACRES.—The payment acres for a covered commodity on a farm shall be equal to 85 percent of the base acres for the covered commodity.

(g) PREVENTION OF EXCESS BASE ACRES.—

(1) REQUIRED REDUCTION.—If the sum of the base acres for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for 1 or more covered commodities for the farm or the base acres for peanuts for the farm under subtitle C so that the sum of the base acres and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for peanuts for the farm under subtitle C.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(3) SELECTION OF ACRES.—The Secretary shall give the owner of the farm the opportunity to select the base acres or the base acres for peanuts for the farm under subtitle C against which the reduction required by paragraph (1) will be made.

(4) EXCEPTION FOR DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) COORDINATED APPLICATION OF REQUIREMENTS.—The Secretary shall take into account section 1302(f) when applying the requirements of this subsection.

(h) PERMANENT REDUCTION IN BASE ACRES.—The owner of a farm may reduce, at any time, the base acres for any covered commodity for the farm. The reduction shall be permanent and made in the manner prescribed by the Secretary.

SEC. 1102. [7 U.S.C. 7912] ESTABLISHMENT OF PAYMENT YIELD.

(a) ESTABLISHMENT AND PURPOSE.—For the purpose of making direct payments and counter-cyclical payments under this subtitle, the Secretary shall provide for the establishment of a payment yield for each farm for each covered commodity in accordance with this section.

(b) USE OF FARM PROGRAM PAYMENT YIELD.—Except as otherwise provided in this section, the payment yield for each of the

2002 through 2007 crops of a covered commodity for a farm shall be the farm program payment yield established for the 1995 crop of the covered commodity under section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465), as adjusted by the Secretary to account for any additional yield payments made with respect to that crop under section 505(b)(2) of that Act.

(c) FARMS WITHOUT FARM PROGRAM PAYMENT YIELD.—In the case of a farm for which a farm program payment yield is unavailable for a covered commodity (other than soybeans or other oilseeds), the Secretary shall establish an appropriate payment yield for the covered commodity on the farm taking into consideration the farm program payment yields applicable to the commodity under subsection (b) for similar farms, but before the yields for the similar farms are updated as provided in subsection (e).

(d) PAYMENT YIELDS FOR OILSEEDS.—

(1) DETERMINATION OF AVERAGE YIELD.—In the case of soybeans and each other oilseed, the Secretary shall determine the average yield per planted acre for the oilseed on a farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the oilseed was zero.

(2) ADJUSTMENT FOR PAYMENT YIELD.—The payment yield for a farm for an oilseed shall be equal to the product of the following:

(A) The average yield for the oilseed determined under paragraph (1).

(B) The ratio resulting from dividing the national average yield for the oilseed for the 1981 through 1985 crops by the national average yield for the oilseed for the 1998 through 2001 crops.

(3) USE OF PARTIAL COUNTY AVERAGE YIELD.—If the yield per planted acre for a crop of an oilseed for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that oilseed, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for the purpose of determining the average under paragraph (1).

(e) OPPORTUNITY TO PARTIALLY UPDATE YIELDS USED TO DETERMINE COUNTER-CYCLICAL PAYMENTS.—

(1) ELECTION TO UPDATE.—If the owner of a farm elects to use the base acres calculation method described in section 1101(a)(1)(A), the owner shall also have a 1-time opportunity to elect to use 1 of the methods described in paragraph (3) to partially update the payment yields that would otherwise be used in calculating any counter-cyclical payments for covered commodities on the farm.

(2) TIME FOR ELECTION.—The election under paragraph (1) shall be made at the same time and in the same manner as the Secretary prescribes for the election required under section 1101.

(3) METHODS OF UPDATING YIELDS.—If the owner of a farm elects to update yields under this subsection, the payment yield for a covered commodity on the farm, for the purpose of calculating counter-cyclical payments only, shall be equal to the yield determined using either of the following:

- (A) The sum of the following:
- (i) The payment yield applicable for direct payments for the covered commodity on the farm.
 - (ii) 70 percent of the difference between—
 - (I) the average yield per planted acre for the crop of the covered commodity on the farm for the 1998 through 2001 crop years, as determined by the Secretary, excluding any crop year in which the acreage planted to the crop of the covered commodity was zero; and
 - (II) the payment yield applicable for direct payments for the covered commodity on the farm.

(B) 93.5 percent of the average of the yield per planted acre for the crop of the covered commodity on the farm for the 1998 through 2001 crop years, as determined by the Secretary, excluding any crop year in which the acreage planted to the crop of the covered commodity was zero.

(4) USE OF PARTIAL COUNTY AVERAGE YIELD.—If the yield per planted acre for a crop of the covered commodity for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that commodity, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for the purpose of determining the average yield under paragraph (3).

(5) APPLICATION OF ELECTION AND METHOD TO ALL COVERED COMMODITIES.—The owner of a farm may not elect the method described in paragraph (3)(A) for 1 covered commodity on the farm and the method described in paragraph (3)(B) for other covered commodities on the farm.

SEC. 1103. [7 U.S.C. 7913] AVAILABILITY OF DIRECT PAYMENTS.

(a) PAYMENT REQUIRED.—For each of the 2002 through 2007 crop years of each covered commodity, the Secretary shall make direct payments to producers on farms for which payment yields and base acres are established.

(b) PAYMENT RATE.—The payment rates used to make direct payments with respect to covered commodities for a crop year are as follows:

- (1) Wheat, \$0.52 per bushel.
- (2) Corn, \$0.28 per bushel.
- (3) Grain sorghum, \$0.35 per bushel.
- (4) Barley, \$0.24 per bushel.
- (5) Oats, \$0.024 per bushel.
- (6) Upland cotton, \$0.0667 per pound.
- (7) Rice, \$2.35 per hundredweight.
- (8) Soybeans, \$0.44 per bushel.
- (9) Other oilseeds, \$0.0080 per pound.

(c) PAYMENT AMOUNT.—The amount of the direct payment to be paid to the producers on a farm for a covered commodity for a crop year shall be equal to the product of the following:

- (1) The payment rate specified in subsection (b).
- (2) The payment acres of the covered commodity on the farm.

(3) The payment yield for the covered commodity for the farm.

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—The Secretary shall make direct payments—

(A) in the case of the 2002 crop year, as soon as practicable after the date of enactment of this Act; and

(B) in the case of each of the 2003 through 2007 crop years, not before October 1 of the calendar year in which the crop of the covered commodity is harvested.

(2) ADVANCE PAYMENTS.—At the option of the producers on a farm, up to 50 percent of the direct payment for a covered commodity for any of the 2003 through 2005 crop years, up to 40 percent of the direct payment for a covered commodity for the 2006 crop year, and up to 22 percent of the direct payment for a covered commodity for the 2007 crop year, shall be paid to the producers in advance. The producers shall select the month within which the advance payment for a crop year will be made. The month selected may be any month during the period beginning on December 1 of the calendar year before the calendar year in which the crop of the covered commodity is harvested through the month within which the direct payment would otherwise be made. The producers may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

SEC. 1104. [7 U.S.C. 7914] AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS.

(a) PAYMENT REQUIRED.—For each of the 2002 through 2007 crop years for each covered commodity, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres are established with respect to the covered commodity if the Secretary determines that the effective price for the covered commodity is less than the target price for the covered commodity.

(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for a covered commodity is equal to the sum of the following:

(1) The higher of the following:

(A) The national average market price received by producers during the 12-month marketing year for the covered commodity, as determined by the Secretary.

(B) The national average loan rate for a marketing assistance loan for the covered commodity in effect for the applicable period under subtitle B.

(2) The payment rate in effect for the covered commodity under section 1103 for the purpose of making direct payments with respect to the covered commodity.

(c) TARGET PRICE.—

(1) 2002 AND 2003 CROP YEARS.—For purposes of the 2002 and 2003 crop years, the target prices for covered commodities shall be as follows:

- (A) Wheat, \$3.86 per bushel.
- (B) Corn, \$2.60 per bushel.
- (C) Grain sorghum, \$2.54 per bushel.
- (D) Barley, \$2.21 per bushel.
- (E) Oats, \$1.40 per bushel.
- (F) Upland cotton, \$0.7240 per pound.
- (G) Rice, \$10.50 per hundredweight.
- (H) Soybeans, \$5.80 per bushel.
- (I) Other oilseeds, \$0.0980 per pound.

(2) SUBSEQUENT CROP YEARS.—For purposes of each of the 2004 through 2007 crop years, the target prices for covered commodities shall be as follows:

- (A) Wheat, \$3.92 per bushel.
- (B) Corn, \$2.63 per bushel.
- (C) Grain sorghum, \$2.57 per bushel.
- (D) Barley, \$2.24 per bushel.
- (E) Oats, \$1.44 per bushel.
- (F) Upland cotton, \$0.7240 per pound.
- (G) Rice, \$10.50 per hundredweight.
- (H) Soybeans, \$5.80 per bushel.
- (I) Other oilseeds, \$0.1010 per pound.

(d) PAYMENT RATE.—The payment rate used to make counter-cyclical payments with respect to a covered commodity for a crop year shall be equal to the difference between—

- (1) the target price for the covered commodity; and
- (2) the effective price determined under subsection (b) for the covered commodity.

(e) PAYMENT AMOUNT.—If counter-cyclical payments are required to be paid for any of the 2002 through 2007 crop years of a covered commodity, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

- (1) The payment rate specified in subsection (d).
- (2) The payment acres of the covered commodity on the farm.
- (3) The payment yield or updated payment yield for the farm, depending on the election of the owner of the farm under section 1102.

(f) TIME FOR PAYMENTS.—

(1) GENERAL RULE.—If the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for the crop of a covered commodity, the Secretary shall make the counter-cyclical payments for the crop as soon as practicable after the end of the 12-month marketing year for the covered commodity.

(2) AVAILABILITY OF PARTIAL PAYMENTS.—If, before the end of the 12-month marketing year for a covered commodity, the

Secretary estimates that counter-cyclical payments will be required for the crop of the covered commodity, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for that crop of the covered commodity.

(3) TIME FOR PARTIAL PAYMENTS.—

(A) 2002 THROUGH 2006 CROP YEARS.—When the Secretary makes partial payments available under paragraph (2) for a covered commodity for any of the 2002 through 2006 crop years—

(i) the first partial payment for the crop year shall be made not earlier than October 1, and, to the maximum extent practicable, not later than October 31, of the calendar year in which the crop of the covered commodity is harvested;

(ii) the second partial payment shall be made not earlier than February 1 of the next calendar year; and

(iii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

(B) 2007 CROP YEAR.—When the Secretary makes partial payments available for a covered commodity for the 2007 crop year—

(i) the first partial payment shall be made after completion of the first 6 months of the marketing year for the covered commodity; and

(ii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

(4) AMOUNT OF PARTIAL PAYMENTS.—

(A) 2002 THROUGH 2006 CROP YEARS.—

(i) FIRST PARTIAL PAYMENT.—For each of the 2002 through 2006 crop years of a covered commodity, the first partial payment under paragraph (3) to the producers on a farm may not exceed 35 percent of the projected counter-cyclical payment for the covered commodity for the crop year, as determined by the Secretary.

(ii) SECOND PARTIAL PAYMENT.—The second partial payment for a covered commodity for a crop year may not exceed the difference between—

(I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the crop of the covered commodity; and

(II) the amount of the payment made under clause (i).

(iii) FINAL PAYMENT.—The final payment for a covered commodity for a crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for the covered commodity for that crop year; and

(II) the amount of the partial payments made to the producers under clauses (i) and (ii) for that crop year.

(B) 2007 CROP YEAR.—

(i) FIRST PARTIAL PAYMENT.—For the 2007 crop year, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the covered commodity for the crop year, as determined by the Secretary.

(ii) FINAL PAYMENT.—The final payment for the 2007 crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for the covered commodity for that crop year; and

(II) the amount of the partial payment made to the producers under clause (i).

(5) REPAYMENT.—The producers on a farm that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for the covered commodity for that crop year.

SEC. 1105. [7 U.S.C. 7915] PRODUCER AGREEMENT REQUIRED AS CONDITION OF PROVISION OF DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive direct payments or counter-cyclical payments with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 1106;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for the farm and any base acres for peanuts for the farm under subtitle C for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in base acres for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination shall take effect on the date determined by the Secretary.

(2) EXCEPTION.—If a producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) ACREAGE REPORTS.—As a condition on the receipt of any benefits under this subtitle or subtitle B, the Secretary shall require producers on a farm to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(d) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

SEC. 1106. [7 U.S.C. 7916] PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on base acres on a farm.

(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—

(1) GENERAL LIMITATION.—The planting of an agricultural commodity specified in paragraph (3) shall be prohibited on base acres unless the commodity, if planted, is destroyed before harvest.

(2) TREATMENT OF TREES AND OTHER PERENNIALS.—The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres.

(3) COVERED AGRICULTURAL COMMODITIES.—Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than lentils, mung beans, and dry peas).

(C) Wild rice.

(c) EXCEPTIONS.—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of covered commodities with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on base acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

(d) **SPECIAL RULE FOR 2002 CROP YEAR.**—For the 2002 crop year only, if the calculation of base acres under section 1101(a) results in total base acres for a farm in excess of the contract acreage (as defined in section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202)) for the farm used to calculate the fiscal year 2002 payment authorized under section 114 of such Act (7 U.S.C. 7214), paragraphs (1) and (2) of subsection (b) shall not limit the harvesting of an agricultural commodity specified in paragraph (3) of that subsection on the excess base acres, except that direct payments and counter-cyclical payments for the 2002 crop year shall be reduced by an acre for each acre of the excess base acres planted to such an agricultural commodity.

SEC. 1107. [7 U.S.C. 7917] RELATION TO REMAINING PAYMENT AUTHORITY UNDER PRODUCTION FLEXIBILITY CONTRACTS.

(a) **TERMINATION OF SUPERSEDED PAYMENT AUTHORITY.**—Notwithstanding section 113(a)(7) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7213(a)(7)) or any other provision of law, the Secretary shall not make payments for fiscal year 2002 after the date of enactment of this Act under a production flexibility contract entered into under section 111 of that Act (7 U.S.C. 7211) unless requested by the producer that is a party to the contract.

(b) **CONTRACT PAYMENTS MADE BEFORE ENACTMENT.**—If a producer receives all or any portion of the payment authorized for fiscal year 2002 under a production flexibility contract, the Secretary shall reduce the amount of the direct payment otherwise due the producer for the 2002 crop year under section 1103 by the amount of the fiscal year 2002 payment received by the producer under the production flexibility contract.

SEC. 1108. [7 U.S.C. 7918] PERIOD OF EFFECTIVENESS.

This subtitle shall be effective beginning with the 2002 crop year of each covered commodity through the 2007 crop year.

Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

SEC. 1201. [7 U.S.C. 7931] AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS FOR LOAN COMMODITIES.

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2002 through 2007 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm.

(2) TERMS AND CONDITIONS.—The marketing assistance loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 1202 for the loan commodity.

(b) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under subsection (a) for any quantity of a loan commodity produced on the farm.

(c) TREATMENT OF CERTAIN COMMINGLED COMMODITIES.—In carrying out this subtitle, the Secretary shall make loans to producers on a farm that would be eligible to obtain a marketing assistance loan, but for the fact the loan commodity owned by the producers on the farm commingled with loan commodities of other producers in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the producers obtaining the loan agree to immediately redeem the loan collateral in accordance with section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286).

(d) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(e) TERMINATION OF SUPERSEDED LOAN AUTHORITY.—Notwithstanding section 131 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231), nonrecourse marketing assistance loans shall not be made for the 2002 crop of loan commodities under subtitle C of title I of such Act.

SEC. 1202. [7 U.S.C. 7932] LOAN RATES FOR NONRECOURSE MARKETING ASSISTANCE LOANS.

(a) 2002 AND 2003 CROP YEARS.—For purposes of the 2002 and 2003 crop years, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

- (1) In the case of wheat, \$2.80 per bushel.
- (2) In the case of corn, \$1.98 per bushel.
- (3) In the case of grain sorghum, \$1.98 per bushel.
- (4) In the case of barley, \$1.88 per bushel.
- (5) In the case of oats, \$1.35 per bushel.
- (6) In the case of upland cotton, \$0.52 per pound.
- (7) In the case of extra long staple cotton, \$0.7977 per pound.

- (8) In the case of rice, \$6.50 per hundredweight.
- (9) In the case of soybeans, \$5.00 per bushel.
- (10) In the case of other oilseeds, \$.0960 per pound for each of the following kinds of oilseeds:
 - (A) Sunflower seed.
 - (B) Rapeseed.
 - (C) Canola.
 - (D) Safflower.
 - (E) Flaxseed.
 - (F) Mustard seed.
 - (G) Crambe.
 - (H) Sesame seed.
 - (I) Other oilseeds designated by the Secretary.
- (11) In the case of graded wool, \$1.00 per pound.
- (12) In the case of nongraded wool, \$0.40 per pound.
- (13) In the case of mohair, \$4.20 per pound.
- (14) In the case of honey, \$0.60 per pound.
- (15) In the case of dry peas, \$6.33 per hundredweight.
- (16) In the case of lentils, \$11.94 per hundredweight.
- (17) In the case of small chickpeas, \$7.56 per hundredweight.

(b) 2004 THROUGH 2007 CROP YEARS.—For purposes of the 2004 through 2007 crop years, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

- (1) In the case of wheat, \$2.75 per bushel.
- (2) In the case of corn, \$1.95 per bushel.
- (3) In the case of grain sorghum, \$1.95 per bushel.
- (4) In the case of barley, \$1.85 per bushel.
- (5) In the case of oats, \$1.33 per bushel.
- (6) In the case of upland cotton, \$0.52 per pound.
- (7) In the case of extra long staple cotton, \$0.7977 per pound.
- (8) In the case of rice, \$6.50 per hundredweight.
- (9) In the case of soybeans, \$5.00 per bushel.
- (10) In the case of other oilseeds, \$.0930 per pound for each of the following kinds of oilseeds:
 - (A) Sunflower seed.
 - (B) Rapeseed.
 - (C) Canola.
 - (D) Safflower.
 - (E) Flaxseed.
 - (F) Mustard seed.
 - (G) Crambe.
 - (H) Sesame seed.
 - (I) Other oilseeds designated by the Secretary.
- (11) In the case of graded wool, \$1.00 per pound.
- (12) In the case of nongraded wool, \$0.40 per pound.
- (13) In the case of mohair, \$4.20 per pound.
- (14) In the case of honey, \$0.60 per pound.
- (15) In the case of dry peas, \$6.22 per hundredweight.
- (16) In the case of lentils, \$11.72 per hundredweight.
- (17) In the case of small chickpeas, \$7.43 per hundredweight.

(c) SINGLE COUNTY LOAN RATE FOR OTHER OILSEEDS.—The Secretary shall establish a single loan rate in each county for each kind of other oilseeds described in subsections (a)(10) and (b)(10).

(d) QUALITY GRADES FOR DRY PEAS, LENTILS, AND SMALL CHICKPEAS.—The loan rate for dry peas, lentils, and small chickpeas shall be based on—

- (1) in the case of dry peas, United States feed peas;
 - (2) in the case of lentils, United States number 3 lentils;
- and
- (3) in the case of small chickpeas, United States number 3 small chickpeas that drop below a 20/64 screen.

SEC. 1203. [7 U.S.C. 7933] TERM OF LOANS.

(a) TERM OF LOAN.—In the case of each loan commodity, a marketing assistance loan under section 1201 shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(b) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

SEC. 1204. [7 U.S.C. 7934] REPAYMENT OF LOANS.

(a) GENERAL RULE.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for a loan commodity (other than upland cotton, rice, extra long staple cotton, and confectionery and each other kind of sunflower seed (other than oil sunflower seed)) at a rate that is the lesser of—

- (1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or
- (2) a rate that the Secretary determines will—
 - (A) minimize potential loan forfeitures;
 - (B) minimize the accumulation of stocks of the commodity by the Federal Government;
 - (C) minimize the cost incurred by the Federal Government in storing the commodity;
 - (D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally; and
 - (E) minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries.

(b) REPAYMENT RATES FOR UPLAND COTTON AND RICE.—The Secretary shall permit producers to repay a marketing assistance loan under section 1201 for upland cotton and rice at a rate that is the lesser of—

- (1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or
- (2) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

(c) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under sec-

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) the repayment rate established for oil sunflower seed.
(g) **QUALITY GRADES FOR DRY PEAS, LENTILS, AND SMALL CHICKPEAS.**—The loan repayment rate for dry peas, lentils, and small chickpeas shall be based on the quality grades for the applicable commodity specified in section 1202(d).

(h) **GOOD FAITH EXCEPTION TO BENEFICIAL INTEREST REQUIREMENT.**—For the 2001 crop year only, in the case of the producers on a farm that marketed or otherwise lost beneficial interest in a loan commodity for which a marketing assistance loan was made under section 131 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231) before repaying the loan, the Secretary shall permit the producers to repay the loan at the appropriate repayment rate that was in effect for the loan commodity under section 134 of that Act (7 U.S.C. 7234) on the date that the producers lost beneficial interest, as determined by the Secretary, if the Secretary determines the producers acted in good faith.

SEC. 1205. [7 U.S.C. 7935] LOAN DEFICIENCY PAYMENTS.

(a) **AVAILABILITY OF LOAN DEFICIENCY PAYMENTS.**—

(1) **IN GENERAL.**—Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan under section 1201 with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for loan deficiency payments under this section.

(2) **UNSHORN PELTS, HAY, AND SILAGE.**—Nongraded wool in the form of unshorn pelts and hay and silage derived from a loan commodity are not eligible for a marketing assistance loan under section 1201. However, effective for the 2002 through 2007 crop years, the Secretary may make loan deficiency payments available under this section to producers on a farm that produce unshorn pelts or hay and silage derived from a loan commodity.

(b) **COMPUTATION.**—A loan deficiency payment for a loan commodity or commodity referred to in subsection (a)(2) shall be computed by multiplying—

(1) the payment rate determined under subsection (c) for the commodity; by

(2) the quantity of the commodity produced by the eligible producers, excluding any quantity for which the producers obtain a marketing assistance loan under section 1201.

(c) **PAYMENT RATE.**—

(1) **IN GENERAL.**—In the case of a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for the loan commodity; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 1204.

(2) **UNSHORN PELTS.**—In the case of unshorn pelts, the payment rate shall be the amount by which—

(1) IN GENERAL.—The amount of a payment made under this section to a producer on a farm described in subsection (a)(1) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 1205(c) in effect, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of wheat, barley, or oats; and

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to that loan commodity on the farm or, in the case of a farm without a payment yield for that loan commodity, an appropriate yield established by the Secretary in a manner consistent with section 1102(c).

(2) GRAZING OF TRITICALE ACREAGE.—The amount of a payment made under this section to a producer on a farm described in subsection (a)(2) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 1205(c) in effect for wheat, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of triticale; and

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to wheat on the farm or, in the case of a farm without a payment yield for wheat, an appropriate yield established by the Secretary in a manner consistent with section 1102(c).

(c) TIME, MANNER, AND AVAILABILITY OF PAYMENT.—

(1) TIME AND MANNER.—A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 1205.

(2) AVAILABILITY.—The Secretary shall establish an availability period for the payments authorized by this section. In the case of wheat, barley, and oats, the availability period shall be consistent with the availability period for the commodity established by the Secretary for marketing assistance loans authorized by this subtitle.

(d) PROHIBITION ON CROP INSURANCE INDEMNITY OR NON-INSURED CROP ASSISTANCE.—A 2002 through 2007 crop of wheat, barley, oats, or triticale planted on acreage that a producer elects, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop shall not be eligible for an indemnity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

SEC. 1207. [7 U.S.C. 7937] SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.³

(b) SPECIAL IMPORT QUOTA.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The President shall carry out an import quota program during the period beginning on the date of the enactment of this Act through July 31, 2008, as provided in this subsection.

(B) PROGRAM REQUIREMENTS.—Except as provided in subparagraph (C), whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1³/₃₂-inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(C) TIGHT DOMESTIC SUPPLY.—During any month for which the Secretary estimates the season-ending United States upland cotton stocks-to-use ratio, as determined under subparagraph (D), to be below 16 percent, the Secretary, in making the determination under subparagraph (B), shall not adjust the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1³/₃₂-inch cotton, delivered C.I.F. Northern Europe.

(D) SEASON-ENDING UNITED STATES STOCKS-TO-USE RATIO.—For the purposes of making estimates under subparagraph (C), the Secretary shall, on a monthly basis, estimate and report the season-ending United States upland cotton stocks-to-use ratio, excluding projected raw cotton imports but including the quantity of raw cotton that has been imported into the United States during the marketing year.

(E) DELAYED APPLICATION OF THRESHOLD.—Through July 31, 2006, the Secretary shall make the calculation under subparagraph (B) without regard to the 1.25 cent threshold provided under that subparagraph.

(2) QUANTITY.—The quota shall be equal to one week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent three months for which data are available.

(3) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (1) and entered into the United States not later than 180 days after the date.

³Sec. 136 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7236) contains provisions that are substantively similar to this section, other than earlier expiration dates in sec. 136 and a lack of provisions that are comparable to subsecs. (a)(4) and (b)(1)(E) of this sec. Since sec. 1207 of this Act was enacted later in time than sec. 136 of the Federal Agriculture Improvement and Reform Act of 1996, it is the probable intent of Congress that sec. 1207 of this Act supersedes sec. 136 of the Federal Agriculture Improvement and Reform Act of 1996.

Effective Aug. 1, 2006, sec. 1103(a)(1) of the Deficit Reduction Act of 2005, P.L. 109-171, 120 Stat. 4, Feb. 8, 2006, struck subsec. (a).

(4) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by paragraph (1), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (c).

(5) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(B) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(C) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(6) DEFINITION.—In this subsection, the term “special import quota” means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(7) LIMITATION.—The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the equivalent of 5 week’s consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

(c) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) IN GENERAL.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) DEFINITIONS.—In this subsection:

(i) SUPPLY.—The term “supply” means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(II) production of the current crop; and

(III) imports to the latest date available during the marketing year.

(ii) DEMAND.—The term “demand” means—

(I) the average seasonally adjusted annual rate of domestic mill consumption during the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) LIMITED GLOBAL IMPORT QUOTA.—The term “limited global import quota” means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(E) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (b).

SEC. 1208. [7 U.S.C. 7938] SPECIAL COMPETITIVE PROVISIONS FOR EXTRA LONG STAPLE COTTON.⁴

(a) COMPETITIVENESS PROGRAM.—Notwithstanding any other provision of law, during the period beginning on the date of the enactment of this Act through July 31, 2008, the Secretary shall carry out a program—

(1) to maintain and expand the domestic use of extra long staple cotton produced in the United States;

(2) to increase exports of extra long staple cotton produced in the United States; and

⁴Sec. 136A of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7236a) contains provisions that are substantively similar to this section, other than earlier expiration dates in sec. 136A. Since sec. 1208 of this Act was enacted later in time than sec. 136A of the Federal Agriculture Improvement and Reform Act of 1996, it is the probable intent of Congress that sec. 1208 of this Act supersedes sec. 136A of the Federal Agriculture Improvement and Reform Act of 1996.

(3) to ensure that extra long staple cotton produced in the United States remains competitive in world markets.

(b) PAYMENTS UNDER PROGRAM; TRIGGER.—Under the program, the Secretary shall make payments available under this section whenever—

(1) for a consecutive 4-week period, the world market price for the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is below the prevailing United States price for a competing growth of extra long staple cotton; and

(2) the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.

(c) ELIGIBLE RECIPIENTS.—The Secretary shall make payments available under this section to domestic users of extra long staple cotton produced in the United States and exporters of extra long staple cotton produced in the United States that enter into an agreement with the Commodity Credit Corporation to participate in the program under this section.

(d) PAYMENT AMOUNT.—Payments under this section shall be based on the amount of the difference in the prices referred to in subsection (b)(1) during the fourth week of the consecutive 4-week period multiplied by the amount of documented purchases by domestic users and sales for export by exporters made in the week following such a consecutive 4-week period.

(e) FORM OF PAYMENT.—Payments under this section shall be made through the issuance of cash or marketing certificates, at the option of eligible recipients of the payments.

SEC. 1209. [7 U.S.C. 7939] AVAILABILITY OF RECOURSE LOANS FOR HIGH MOISTURE FEED GRAINS AND SEED COTTON.

(a) HIGH MOISTURE FEED GRAINS.—

(1) RECOURSE LOANS AVAILABLE.—For each of the 2002 through 2007 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm that—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(2) ELIGIBILITY OF ACQUIRED FEED GRAINS.—A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield used to make counter-cyclical payments under subtitle A or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(3) HIGH MOISTURE STATE DEFINED.—In this subsection, the term “high moisture state” means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 1201.

(b) RECOURSE LOANS AVAILABLE FOR SEED COTTON.—For each of the 2002 through 2007 crops of upland cotton and extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) REPAYMENT RATES.—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).

(d) TERMINATION OF SUPERSEDED LOAN AUTHORITY.—Notwithstanding section 137 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7237), recourse loans shall not be made for the 2002 crop of corn, grain sorghum, and seed cotton under such section.

Subtitle C—Peanuts

SEC. 1301. [7 U.S.C. 7951] DEFINITIONS.

In this subtitle:

(1) BASE ACRES FOR PEANUTS.—The term “base acres for peanuts” means the number of acres assigned to a farm by historic peanut producers pursuant to section 1302(b).

(2) COUNTER-CYCLICAL PAYMENT.—The term “counter-cyclical payment” means a payment made under section 1304.

(3) EFFECTIVE PRICE.—The term “effective price” means the price calculated by the Secretary under section 1304 for

peanuts to determine whether counter-cyclical payments are required to be made under that section for a crop year.

(4) DIRECT PAYMENT.—The term “direct payment” means a payment made under section 1303.

(5) HISTORIC PEANUT PRODUCER.—The term “historic peanut producer” means a producer on a farm in the United States that produced or was prevented from planting peanuts during any or all of the 1998 through 2001 crop years.

(6) PAYMENT ACRES.—The term “payment acres” means—
(A) for the 2002 crop of peanuts, 85 percent of the average acreage determined under section 1302(a)(2) for an historic peanut producer; and

(B) for the 2003 through 2007 crops of peanuts, 85 percent of the base acres for peanuts assigned to a farm under section 1302(b).

(7) PAYMENT YIELD.—The term “payment yield” means the yield assigned to a farm by historic peanut producers pursuant to section 1302(b).

(8) PRODUCER.—The term “producer” means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop on a farm and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this subtitle.

(9) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(10) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(11) TARGET PRICE.—The term “target price” means the price per ton of peanuts used to determine the payment rate for counter-cyclical payments.

(12) UNITED STATES.—The term “United States”, when used in a geographical sense, means all of the States.

SEC. 1302. [7 U.S.C. 7952] ESTABLISHMENT OF PAYMENT YIELD AND BASE ACRES FOR PEANUTS FOR A FARM.

(a) AVERAGE YIELD AND ACREAGE AVERAGE FOR HISTORIC PEANUT PRODUCERS.—

(1) DETERMINATION OF AVERAGE YIELD.—

(A) IN GENERAL.—The Secretary shall determine, for each historic peanut producer, the average yield for peanuts on each farm on which the historic peanut producer planted peanuts for harvest for the 1998 through 2001 crop years, excluding any crop year in which the producer did not plant or was prevented from planting peanuts.

(B) ASSIGNED YIELDS.—For the purposes of determining the 4-year average yield for an historic peanut producer under this paragraph, the historic peanut producer may elect to substitute for a farm, for not more than 3 of

the 1998 through 2001 crop years in which the producer planted peanuts on the farm, the average yield for peanuts produced in the county in which the farm is located for the 1990 through 1997 crop years.

(2) DETERMINATION OF ACREAGE AVERAGE.—

(A) IN GENERAL.—The Secretary shall determine, for each historic peanut producer, the 4-year average of the following:

(i) Acreage planted to peanuts on each farm on which the historic peanut producer planted peanuts for harvest for the 1998 through 2001 crop years.

(ii) Any acreage on each farm that the historic peanut producer was prevented from planting to peanuts during the 1998 through 2001 crop years because of drought, flood, or other natural disaster, or other condition beyond the control of the historic peanut producer, as determined by the Secretary.

(B) INCLUSION OF ALL 4 YEARS IN AVERAGE.—For the purposes of determining the 4-year acreage average for an historic peanut producer under this paragraph, the Secretary shall not exclude any crop year in which the producer did not plant peanuts.

(C) PROPORTIONAL SHARES.—If more than 1 historic peanut producer shared in the risk of producing the crop on a farm, the historic peanut producers shall receive their proportional share of the number of acres planted (or prevented from being planted) to peanuts for harvest on the farm based on the sharing arrangement that was in effect among the producers for the crop.

(3) TIME FOR DETERMINATIONS.—The Secretary shall make the determinations required by this subsection as soon as practicable after the date of enactment of this Act.

(4) SPECIAL CONSIDERATIONS.—In making the determinations required by this subsection, the Secretary shall take into account changes in the number, identity, or interest of producers sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm—

(A) when an historic peanut producer is no longer living;

(B) when an entity composed of historic peanut producers has been dissolved; or

(C) in other appropriate situations, as determined by the Secretary.

(b) ASSIGNMENT OF AVERAGE YIELDS AND AVERAGE ACREAGE TO FARMS.—

(1) ASSIGNMENT BY HISTORIC PEANUT PRODUCERS.—The Secretary shall give each historic peanut producer an opportunity to assign the average peanut yield and average acreage determined under subsection (a) for each farm of the historic peanut producer to cropland on that farm or another farm in the same State or a contiguous State.

(2) LIMITATION ON ACREAGE ASSIGNMENT.—Notwithstanding paragraph (1), the average acreage determined under

subsection (a)(2) for a farm may not be assigned to a farm in a contiguous State unless—

(A) the historic peanut producer making the assignment produced peanuts in that State during at least 1 of the 1998 through 2001 crop years; or

(B) as of March 31, 2003, the historic peanut producer is a producer on a farm in that State.

(3) NOTICE OF ASSIGNMENT OPPORTUNITY.—The Secretary shall provide notice to historic peanut producers regarding their opportunity to assign average peanut yields and average acreages to farms under paragraph (1). The notice shall include the following:

(A) Notice that the opportunity to make the assignments is being provided only once.

(B) A description of the limitation in paragraph (2) on their ability to make the assignments.

(C) Information regarding the manner in which the assignments must be made and the time periods and manner in which notice of the assignments must be submitted to the Secretary.

(4) ASSIGNMENT DEADLINES.—Not later than March 31, 2003, an historic peanut producer shall submit to the Secretary notice of the assignments made by the producer under this subsection. If an historic peanut producer fails to submit the notice by that date, the notice shall be submitted in such other manner as the Secretary may prescribe.

(c) PAYMENT YIELD.—The average of all of the yields assigned by historic peanut producers under subsection (b) to a farm shall be considered to be the payment yield for that farm for the purpose of making direct payments and counter-cyclical payments under this subtitle.

(d) BASE ACRES FOR PEANUTS.—Subject to subsection (e), the total number of acres assigned by historic peanut producers under subsection (b) to a farm shall be considered to be the farm's base acres for peanuts for the purpose of making direct payments and counter-cyclical payments under this subtitle.

(e) TREATMENT OF CONSERVATION RESERVE CONTRACT ACREAGE.—

(1) IN GENERAL.—The Secretary shall provide for an adjustment, as appropriate, in the base acres for peanuts for a farm whenever either of the following circumstances occur:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary.

(2) SPECIAL PAYMENT RULES.—For the crop year in which a base acres for peanuts adjustment under paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(f) PREVENTION OF EXCESS BASE ACRES FOR PEANUTS.—

(1) REQUIRED REDUCTION.—If the sum of the base acres for peanuts for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for peanuts for the farm or the base acres for 1 or more covered commodities under subtitle A for the farm so that the sum of the base acres for peanuts and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for the farm under subtitle A.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(3) SELECTION OF ACRES.—The Secretary shall give the owner of the farm the opportunity to select the base acres for peanuts or the subtitle A base acres against which the reduction required by paragraph (1) will be made.

(4) EXCEPTION FOR DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) COORDINATED APPLICATION OF REQUIREMENTS.—The Secretary shall take into account section 1101(g) when applying the requirements of this subsection.

(g) PERMANENT REDUCTION IN BASE ACRES FOR PEANUTS.—The owner of a farm may reduce, at any time, the base acres for peanuts assigned to the farm. The reduction shall be permanent and made in the manner prescribed by the Secretary.

SEC. 1303. [7 U.S.C. 7953] AVAILABILITY OF DIRECT PAYMENTS FOR PEANUTS.

(a) PAYMENT REQUIRED.—

(1) 2002 CROP YEAR.—For the 2002 crop year, the Secretary shall make direct payments under this section to historic peanut producers.

(2) SUBSEQUENT CROP YEARS.—For each of the 2003 through 2007 crop years for peanuts, the Secretary shall make direct payments to the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302.

(b) PAYMENT RATE.—The payment rate used to make direct payments with respect to peanuts for a crop year shall be equal to \$36 per ton.

(c) PAYMENT AMOUNT FOR 2002 CROP YEAR.—The amount of the direct payment to be paid to an historic peanut producer for the 2002 crop of peanuts shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres of the historic peanut producer.

(3) The average peanut yield determined under section 1302(a)(1) for the historic peanut producer.

(d) PAYMENT AMOUNT FOR SUBSEQUENT CROP YEARS.—The amount of the direct payment to be paid to the producers on a farm for the 2003 through 2007 crops of peanuts shall be equal to the product of the following:

- (1) The payment rate specified in subsection (b).
- (2) The payment acres on the farm.
- (3) The payment yield for the farm.

(e) TIME FOR PAYMENT.—

(1) IN GENERAL.—The Secretary shall make direct payments—

(A) in the case of the 2002 crop year, as soon as practicable after the date of enactment of this Act; and

(B) in the case of each of the 2003 through 2007 crop years, not later than September 30 of the calendar year in which the crop is harvested.

(2) ADVANCE PAYMENTS.—At the option of the producers on a farm, up to 50 percent of the direct payment for any of the 2003 through 2005 crop years, up to 40 percent of the direct payment for the 2006 crop year, and up to 22 percent of the direct payment for the 2007 crop year, shall be paid to the producers in advance. The producers shall select the month within which the advance payment for a crop year will be made. The month selected may be any month during the period beginning on December 1 of the calendar year before the calendar year in which the crop is harvested through the month within which the direct payment would otherwise be made. The producers may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

SEC. 1304. [7 U.S.C. 7954] AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS FOR PEANUTS.

(a) PAYMENT REQUIRED.—

(1) IN GENERAL.—During the 2002 through 2007 crop years for peanuts, the Secretary shall make counter-cyclical payments under this section with respect to peanuts if the Secretary determines that the effective price for peanuts is less than the target price for peanuts.

(2) 2002 CROP YEAR.—If counter-cyclical payments are required for the 2002 crop year, the Secretary shall make the payments to historic peanut producers.

(3) SUBSEQUENT CROP YEARS.—If counter-cyclical payments are required for any of the 2003 through 2007 crop years for peanuts, the Secretary shall make the payments to the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302.

imum extent practicable, not later than October 31, of the calendar year in which the crop is harvested;

(ii) the second partial payment shall be made not earlier than February 1 of the next calendar year; and

(iii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for that crop.

(B) 2007 CROP YEAR.—When the Secretary makes partial payments available for the 2007 crop year—

(i) the first partial payment shall be made after completion of the first 6 months of the marketing year for that crop; and

(ii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for that crop.

(4) AMOUNT OF PARTIAL PAYMENTS.—

(A) 2002 CROP YEAR.—

(i) FIRST PARTIAL PAYMENT.—In the case of the 2002 crop year, the first partial payment under paragraph (3) to an historic peanut producer may not exceed 35 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(ii) SECOND PARTIAL PAYMENT.—The second partial payment may not exceed the difference between—

(I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the 2002 crop year; and

(II) the amount of the payment made under clause (i).

(iii) FINAL PAYMENT.—The final payment shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the historic peanut producer; and

(II) the amount of the partial payments made to the historic peanut producer under clauses (i) and (ii).

(B) 2003 THROUGH 2006 CROP YEARS.—

(i) FIRST PARTIAL PAYMENT.—For each of the 2003 through 2006 crop years, the first partial payment under paragraph (3) to the producers on a farm may not exceed 35 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(ii) SECOND PARTIAL PAYMENT.—The second partial payment for a crop year may not exceed the difference between—

(I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the crop year; and

(II) the amount of the payment made under clause (i).

(iii) FINAL PAYMENT.—The final payment for a crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for that crop year; and

(II) the amount of the partial payments made to the producers under clauses (i) and (ii) for that crop year.

(C) 2007 CROP YEAR.—

(i) FIRST PARTIAL PAYMENT.—For the 2007 crop year, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(ii) FINAL PAYMENT.—The final payment for the 2007 crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for that crop year; and

(II) the amount of the partial payment made to the producers under clause (i).

(5) REPAYMENT.—The producers on a farm (or, in the case of the 2002 crop year, historic peanut producers) that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for that crop year.

SEC. 1305. [7 U.S.C. 7955] PRODUCER AGREEMENT REQUIRED AS CONDITION ON PROVISION OF DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive direct payments or counter-cyclical payments under this subtitle with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 1306;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for peanuts and any base acres for the farm under subtitle A, for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in the base acres for peanuts for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to those acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination shall take effect on the date determined by the Secretary.

(2) EXCEPTION.—If a producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) ACREAGE REPORTS.—As a condition on the receipt of direct payments, counter-cyclical payments, marketing assistance loans, or loan deficiency payments under this subtitle, the Secretary shall require the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302 to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(d) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

SEC. 1306. [7 U.S.C. 7956] PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on the base acres for peanuts on a farm.

(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—

(1) GENERAL LIMITATION.—The planting of an agricultural commodity specified in paragraph (2) shall be prohibited on base acres for peanuts unless the commodity, if planted, is destroyed before harvest.

(2) TREATMENT OF TREES AND OTHER PERENNIALS.—The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres for peanuts.

(3) COVERED AGRICULTURAL COMMODITIES.—Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than lentils, mung beans, and dry peas).

(C) Wild rice.

(c) EXCEPTIONS.—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of peanuts with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on the base acres for peanuts, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

SEC. 1307. [7 U.S.C. 7957] MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS.

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2002 through 2007 crops of peanuts, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b).

(2) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under this subsection for any quantity of peanuts produced on the farm.

(3) TREATMENT OF CERTAIN COMMINGLED COMMODITIES.—In carrying out this subsection, the Secretary shall make loans to producers on a farm that would be eligible to obtain a marketing assistance loan, but for the fact the peanuts owned by the producers on the farm are commingled with other peanuts in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the producers obtaining the loan agree to immediately redeem the loan collateral in accordance with section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286).

(4) OPTIONS FOR OBTAINING LOAN.—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained at the option of the producers on a farm through—

(A) a designated marketing association or marketing cooperative of producers that is approved by the Secretary; or

(B) the Farm Service Agency.

(5) STORAGE OF LOAN PEANUTS.—As a condition on the Secretary's approval of an individual or entity to provide storage for peanuts for which a marketing assistance loan is made under this section, the individual or entity shall agree—

(A) to provide such storage on a nondiscriminatory basis; and

(B) to comply with such additional requirements as the Secretary considers appropriate to accomplish the purposes of this section and promote fairness in the administration of the benefits of this section.

(6) PAYMENT OF PEANUT STORAGE COSTS.—Effective for the 2002 through 2006 crops of peanuts, to ensure proper storage of peanuts for which a loan is made under this section, the Secretary shall use the funds of the Commodity Credit Corporation to pay storage, handling, and other associated costs. This authority terminates beginning with the 2007 crop of peanuts.

(7) MARKETING.—A marketing association or cooperative may market peanuts for which a loan is made under this section in any manner that conforms to consumer needs, including the separation of peanuts by type and quality.

(b) LOAN RATE.—The loan rate for a marketing assistance loan under for peanuts subsection (a) shall be equal to \$355 per ton.

(c) TERM OF LOAN.—

(1) IN GENERAL.—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(2) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

(d) REPAYMENT RATE.—

(1) IN GENERAL.—The Secretary shall permit producers on a farm to repay a marketing assistance loan for peanuts under subsection (a) at a rate that is the lesser of—

(A) the loan rate established for peanuts under subsection (b), plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(B) a rate that the Secretary determines will—

(i) minimize potential loan forfeitures;

(ii) minimize the accumulation of stocks of peanuts by the Federal Government;

(iii) minimize the cost incurred by the Federal Government in storing peanuts; and

(iv) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

(2) GOOD FAITH EXCEPTION TO BENEFICIAL INTEREST REQUIREMENT.—For the 2002 crop year only, in the case of the producers on a farm that marketed or otherwise lost beneficial interest in the peanuts for which a marketing assistance loan was made under this section before repaying the loan, the Secretary shall permit the producers to repay the loan at the applicable repayment rate that was in effect for peanuts under

this subsection on the date that the producers lost beneficial interest, as determined by the Secretary, if the Secretary determines the producers acted in good faith.

(e) LOAN DEFICIENCY PAYMENTS.—

(1) AVAILABILITY.—The Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for loan deficiency payments under this subsection.

(2) COMPUTATION.—A loan deficiency payment under this subsection shall be computed by multiplying—

(A) the payment rate determined under paragraph (3) for peanuts; by

(B) the quantity of the peanuts produced by the producers, excluding any quantity for which the producers obtain a marketing assistance loan under subsection (a).

(3) PAYMENT RATE.—For purposes of this subsection, the payment rate shall be the amount by which—

(A) the loan rate established under subsection (b); exceeds

(B) the rate at which a loan may be repaid under subsection (d).

(4) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—

(A) IN GENERAL.—The Secretary shall determine the amount of the loan deficiency payment to be made under this subsection to the producers on a farm with respect to a quantity of peanuts using the payment rate in effect under paragraph (3) as of the date the producers request the payment.

(B) SPECIAL RULE FOR 2002 CROP YEAR.—For the 2002 crop year only, the Secretary shall determine the amount of the loan deficiency payment to be made under this subsection to the producers on a farm with respect to a quantity of peanuts using the payment rate in effect under paragraph (3) as of the earlier of the following:

(i) The date on which the producers marketed or otherwise lost beneficial interest in the crop, as determined by the Secretary.

(ii) The date the producers request the payment.

(f) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF ADMINISTRATIVE EXPENSES.—The Secretary may implement any reimbursable agreements or provide for the payment of administrative expenses under this subtitle only in a manner that is consistent with such activities in regard to other commodities.

SEC. 1308. [7 U.S.C. 7958] MISCELLANEOUS PROVISIONS.

(a) **MANDATORY INSPECTION.**—All peanuts marketed in the United States shall be officially inspected and graded by Federal or Federal-State inspectors.

(b) **TERMINATION OF PEANUT ADMINISTRATIVE COMMITTEE.**—The Peanut Administrative Committee established under Marketing Agreement No. 146 issued pursuant to the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is terminated.

(c) **PEANUT STANDARDS BOARD.**—

(1) **ESTABLISHMENT AND PURPOSE.**—The Secretary shall establish a Peanut Standards Board for the purpose of advising the Secretary regarding the establishment of quality and handling standards for domestically produced and imported peanuts.

(2) **MEMBERSHIP AND APPOINTMENT.**—

(A) **TOTAL MEMBERS.**—The Board shall consist of 18 members, with representation equally divided between peanut producers and peanut industry representatives.

(B) **APPOINTMENT PROCESS FOR PRODUCERS.**—The Secretary shall appoint—

(i) 3 producers from the Southeast (Alabama, Georgia, and Florida) peanut producing region;

(ii) 3 producers from the Southwest (Texas, Oklahoma, and New Mexico) peanut producing region; and

(iii) 3 producers from the Virginia/Carolina (Virginia, North Carolina, and South Carolina) peanut producing region.

(C) **APPOINTMENT PROCESS FOR INDUSTRY REPRESENTATIVES.**—The Secretary shall appoint 3 peanut industry representatives from each of the 3 peanut producing regions in the United States.

(3) **TERMS.**—

(A) **IN GENERAL.**—A member of the Board shall serve a 3-year term.

(B) **INITIAL APPOINTMENT.**—In making the initial appointments to the Board, the Secretary shall stagger the terms of the members so that—

(i) 1 producer member and peanut industry member from each peanut producing region serves a 1-year term;

(ii) 1 producer member and peanut industry member from each peanut producing region serves a 2-year term; and

(iii) 1 producer member and peanut industry member from each peanut producing region serves a 3-year term.

(4) **CONSULTATION REQUIRED.**—The Secretary shall consult with the Board in advance whenever the Secretary establishes or changes, or considers the establishment of or a change to, quality and handling standards for peanuts.

(5) **FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

1359a), as in effect on the day before the date of enactment of this Act, shall continue to apply with respect to the 2001 crop of peanuts notwithstanding the amendment made by paragraph (1). Section 1308(g)(2) shall also apply to the 2001 crop of peanuts.

(b) COMPENSATION CONTRACT REQUIRED.—

(1) IN GENERAL.—The Secretary shall offer to enter into a contract with each person that the Secretary determines is an eligible peanut quota holder under subsection (f) for the purpose of providing compensation for the lost value of the quota on account of the repeal of the marketing quota program for peanuts under subsection (a).

(2) PAYMENT PERIOD.—The Secretary shall make payments under the contracts during fiscal years 2002 through 2006.

(c) TIME FOR PAYMENT.—

(1) PAYMENT IN INSTALLMENTS.—The payments required under the contracts shall be provided in 5 equal installments not later than September 30 of each of fiscal years 2002 through 2006.

(2) SINGLE PAYMENT.—At the request of an eligible peanut quota holder entitled to payments under a contract, the Secretary shall provide the entire payment amount determined under subsection (d) with respect to the eligible peanut quota holder for the 5 fiscal years in a single lump sum during the fiscal year specified by the eligible peanut quota holder.

(d) PAYMENT AMOUNT.—The amount of the payment for a fiscal year to an eligible peanut quota holder under a contract shall be equal to the product obtained by multiplying—

(1) \$0.11 per pound; by

(2) the number of pounds of quota with respect to which the person qualifies as a peanut quota holder under subsection (f).

(e) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to the payments made under the contracts. A person making an assignment of the payment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this subsection.

(f) ELIGIBLE PEANUT QUOTA HOLDER.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall consider a person to be an eligible peanut quota holder for the purposes of this section if the person, as of the date of enactment of this Act, owned a farm that, also as of that date, was eligible for a permanent peanut quota under section 358–1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1(b)), irrespective of temporary leases, transfers of quotas for seed, or quotas for experimental purposes.

(2) EFFECT OF PURCHASE CONTRACT.—If there was a written contract for the purchase of all or a portion of a farm described in paragraph (1) as of the date of enactment of this Act and the parties to the sale are unable to agree to the disposition of eligibility for payments under this section, the Sec-

retary, taking into account any incomplete permanent transfer of quota that has otherwise been agreed to, shall provide for the equitable division of the payments among the parties by adjusting the determination of who is the eligible peanut quota holder with respect to particular pounds of the quota.

(3) EFFECT OF AGREEMENT FOR PERMANENT QUOTA TRANSFER.—If the Secretary determines that there was in existence, as of the date of enactment of this Act, an agreement for the permanent transfer of quota, but that the transfer was not completed by that date, the Secretary shall consider the peanut quota holder to be the party to the agreement who, as of that date, was the owner of the farm to which the quota was to be transferred.

(4) PROTECTED BASES.—A person that owns a farm with a peanut poundage quota which is protected under a conservation reserve program contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) shall be considered to be an eligible quota holder with respect to the protected poundage.

(5) SECRETARIAL DISCRETION.—Notwithstanding the preceding paragraphs, the Secretary may declare a person to be the eligible peanut quota holder with respect to certain pounds of quota or otherwise for purposes of this section if the Secretary considers the declaration is needed to insure a fair and equitable administration of the payments provided for in this section, so long as the Secretary does not, in exercising this authority, effectively increase the total quota in excess of the quota that was available to all producers for the 2001 crop year for other than seed or experimental use.

(6) LIMITATION ON QUANTITY OF QUOTA HELD.—A person shall be considered an eligible peanut quota holder for purposes of this section only with respect to that number of permanent pounds that qualifies the person as a peanut quota holder under one of the preceding paragraphs. The determination of the peanut poundage amount for which the person qualifies shall be made based on the 2001 crop quota levels and shall take into account sales of the farm that occurred before the date of enactment of this Act and any permanent transfers of quota that took place before that date, consistent with the preceding paragraphs. The Secretary shall not take into account, or allow eligibility for, quotas for seed, granted as experimental quotas, or obtained by temporary lease or transfer.

(g) SUCCESSIONS IN PAYMENT ELIGIBILITY AND ATTACHMENT OF ELIGIBILITY TO PERSONS.—

(1) ELIGIBILITY ATTACHES TO PERSONS.—Once a person is eligible for payments under this section, as determined under subsection (f), the continued eligibility of the person for the payments does not run with a farm, but shall remain with the person for the term of this section irrespective of whether the person sells, or continues to have an interest in, the farm that had the quota that qualified the person as an eligible peanut quota holder under subsection (f) and irrespective of whether

the person has a continuing interest in the production of peanuts.

(2) SUCCESSION.—If a person eligible for payments under this section dies, in the case of an individual, or ceases to exist, in the case of other persons, the payment eligibility of the person shall pass to the person's personal or organizational successor, as determined by the Secretary.

(h) CONFORMING AMENDMENTS.—

(1) ADMINISTRATIVE PROVISIONS.—⁶

(2) ADJUSTMENT OF QUOTAS.—⁷

(3) REPORTS AND RECORDS.—⁸

(4) EMINENT DOMAIN.—⁹

**SEC. 1310. [7 U.S.C. 7960] REPEAL OF SUPERSEDED PRICE SUPPORT
AUTHORITY AND EFFECT OF REPEAL.**

(a) REPEAL OF PRICE SUPPORT AUTHORITY.—

(1) IN GENERAL.—¹⁰

(2) CONFORMING AMENDMENTS.—¹¹

(3) TECHNICAL AMENDMENT.—¹²

(b) DISPOSAL.—Notwithstanding any other provision of law or previous declaration made by the Secretary, the Secretary shall ensure that the disposal of all peanuts for which a loan for the 2001 crop of peanuts was made under section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271) before the date of enactment of this Act is carried out in a manner that prevents price disruptions in the domestic and international markets for peanuts.

(c) TREATMENT OF CROP INSURANCE POLICIES FOR 2002 CROP YEAR.—

(1) APPLICABILITY.—This subsection shall apply for the 2002 crop year only notwithstanding any other provision of law or crop insurance policy.

(2) PRICE ELECTION.—The nonquota price election for segregation I, II, and III peanuts shall be 17.75 cents per pound and shall be used for all aspects of the policy relating to the calculations of premium, liability, and indemnities.

(3) QUALITY ADJUSTMENT.—For the purposes of quality adjustment only, the average support price per pound of peanuts shall be a price equal to 17.75 cents per pound. Quality under the crop insurance policy for peanuts shall be adjusted under procedures issued by the Federal Crop Insurance Corporation.

⁶Sec. 1309(h)(1) amended sec. 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361).

⁷Sec. 1309(h)(2) amended sec. 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371).

⁸Sec. 1309(h)(3) amended sec. 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373).

⁹Sec. 1309(h)(4) amended sec. 378(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378(c)).

¹⁰Sec. 1310(a)(1) repealed sec. 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271).

¹¹Sec. 1310(a)(2) amended secs. 101(b) and 408(c) of the Food Security Act of 1985 (7 U.S.C. 1441(b), 1428(c)).

¹²Sec. 1310(a)(3) amended the chapter heading of chapter 2 of subtitle D of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. prec. 7271).

Subtitle D—Sugar

SEC. 1401. SUGAR PROGRAM.

(a) EXTENSION AND MODIFICATION OF EXISTING SUGAR PROGRAM.—¹³

(b) EFFECTIVE DATE OF ASSESSMENT TERMINATION.—¹⁴

(c) INTEREST RATE.—¹⁵

SEC. 1402. [7 U.S.C. 7971] STORAGE FACILITY LOANS.

(a) IN GENERAL.—Notwithstanding any other provision of law and as soon as practicable after the date of enactment of this Act, the Commodity Credit Corporation shall amend part 1436 of title 7, Code of Federal Regulations, to establish a sugar storage facility loan program to provide financing for processors of domestically-produced sugarcane and sugar beets to construct or upgrade storage and handling facilities for raw sugars and refined sugars.

(b) ELIGIBLE PROCESSORS.—A storage facility loan described in subsection (a) shall be made available to any processor of domestically produced sugarcane or sugar beets that (as determined by the Secretary)—

(1) has a satisfactory credit history;

(2) has a need for increased storage capacity, taking into account the effects of marketing allotments; and

(3) demonstrates an ability to repay the loan.

(c) TERM OF LOANS.—A storage facility loan described in subsection (a) shall—

(1) have a minimum term of 7 years;

(2) not include any penalty for prepayment; and

(3) be in such amounts and on such other terms and conditions (including terms and conditions relating to downpayments, collateral, and eligible facilities) as are normal, customary, and appropriate for the size and commercial nature of the borrower.

SEC. 1403. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.¹⁶

Subtitle E—Dairy

SEC. 1501. [7 U.S.C. 7981] MILK PRICE SUPPORT PROGRAM.

(a) SUPPORT ACTIVITIES.—During the period beginning on June 1, 2002, and ending on December 31, 2007, the Secretary of Agriculture shall support the price of milk produced in the 48 contiguous States through the purchase of cheese, butter, and nonfat dry milk produced from the milk.

(b) RATE.—During the period specified in subsection (a), the price of milk shall be supported at a rate equal to \$9.90 per hundredweight for milk containing 3.67 percent butterfat.

¹³Sec. 1401(a) amended sec. 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) in its entirety.

¹⁴Effective October 1, 2001, sec. 1401(b) repealed subsection (f) of section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(f)).

¹⁵Sec. 1401(c) amended sec. 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283).

¹⁶Sec. 1403 amended part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 359aa et seq.) in its entirety.

(c) PURCHASE PRICES.—

(1) UNIFORM PRICES.—The support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Secretary shall be the same for all of that product sold by persons offering to sell the product to the Secretary.

(2) SUFFICIENT PRICES.—The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price that is not less than the rate of price support for milk in effect under subsection (b).

(d) SPECIAL RULE FOR BUTTER AND NONFAT DRY MILK PURCHASE PRICES.—

(1) ALLOCATION OF PURCHASE PRICES.—The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. Not later than 10 days after making or changing an allocation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this section.

(2) TIMING OF PURCHASE PRICE ADJUSTMENTS.—The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(e) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

SEC. 1502. [7 U.S.C. 7982] NATIONAL DAIRY MARKET LOSS PAYMENTS.

(a) DEFINITIONS.—In this section:¹⁷

(1) CLASS I MILK.—The term “Class I milk” means milk (including milk components) classified as Class I milk under a Federal milk marketing order.

(2) ELIGIBLE PRODUCTION.—The term “eligible production” means milk produced by a producer in a participating State.

(3) FEDERAL MILK MARKETING ORDER.—The term “Federal milk marketing order” means an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(4) PARTICIPATING STATE.—The term “participating State” means each State.

(5) PRODUCER.—The term “producer” means an individual or entity that directly or indirectly (as determined by the Secretary)—

- (A) shares in the risk of producing milk; and
- (B) makes contributions (including land, labor, management, equipment, or capital) to the dairy farming oper-

¹⁷So in original. Single quotes around each defined term in this subsec. should be double quotes.

- ation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of the operation.
- (b) **PAYMENTS.**—The Secretary shall offer to enter into contracts with producers on a dairy farm located in a participating State under which the producers receive payments on eligible production.
- (c) **AMOUNT.**—Payments to a producer under this section shall be calculated by multiplying (as determined by the Secretary)—
- (1) the payment quantity for the producer during the applicable month established under subsection (d);
 - (2) the amount equal to—
 - (A) \$16.94 per hundredweight; less
 - (B) the Class I milk price per hundredweight in Boston under the applicable Federal milk marketing order; by
 - (3)(A) during the period beginning on the first day of the month the producers on a dairy farm enter into a contract under this section and ending on September 30, 2005, 45 percent; and
 - (B) during the period beginning on October 1, 2005, and ending on September 30, 2007, 34 percent.
- (d) **PAYMENT QUANTITY.**—
- (1) **IN GENERAL.**—Subject to paragraph (2), the payment quantity for a producer during the applicable month under this section shall be equal to the quantity of eligible production marketed by the producer during the month.
 - (2) **LIMITATION.**—The payment quantity for all producers on a single dairy operation during the months of the applicable fiscal year for which the producers receive payments under subsection (b) shall not exceed 2,400,000 pounds. For purposes of determining whether producers are producers on separate dairy operations or a single dairy operation, the Secretary shall apply the same standards as were applied in implementing the dairy program under section 805 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. 1549A–50).
 - (3) **RECONSTITUTION.**—The Secretary shall promulgate regulations to ensure that a producer does not reconstitute a dairy operation for the sole purpose of receiving additional payments under this section.
- (e) **PAYMENTS.**—A payment under a contract under this section shall be made on a monthly basis not later than 60 days after the last day of the month for which the payment is made.
- (f) **SIGNUP.**—The Secretary shall offer to enter into contracts under this section during the period beginning on the date that is 60 days after the date of enactment of this Act and ending on September 30, 2007.
- (g) **DURATION OF CONTRACT.**—
- (1) **IN GENERAL.**—Except as provided in paragraph (2), any contract entered into by producers on a dairy farm under this section shall cover eligible production marketed by the producers on the dairy farm during the period starting with the

first day of month the producers on the dairy farm enter into the contract and ending on September 30, 2007.

(2) VIOLATIONS.—If a producer violates the contract, the Secretary may—

(A) terminate the contract and allow the producer to retain any payments received under the contract; or

(B) allow the contract to remain in effect and require the producer to repay a portion of the payments received under the contract based on the severity of the violation.

SEC. 1503. DAIRY EXPORT INCENTIVE AND DAIRY INDEMNITY PROGRAMS.

(a) DAIRY EXPORT INCENTIVE PROGRAM.—¹⁸

(b) DAIRY INDEMNITY PROGRAM.—¹⁹

SEC. 1504. DAIRY PRODUCT MANDATORY REPORTING.²⁰

SEC. 1505. FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.

(a) DEFINITIONS.—²¹

(b) REPRESENTATION OF IMPORTERS ON BOARD.—²²

(c) BUDGETS.—²³

(d) IMPORTER ASSESSMENT.—²⁴

(e) RECORDS.—²⁵

(f) IMPORTER ELIGIBILITY TO VOTE IN REFERENDUM.—²⁶

(g) ORDER IMPLEMENTATION AND INTERNATIONAL TRADE OBLIGATIONS.—²⁷

(h) CONFORMING AMENDMENTS TO REFLECT ADDITION OF IMPORTERS.—²⁸

SEC. 1506. FLUID MILK PROMOTION.

(a) DEFINITION OF FLUID MILK PRODUCT.—²⁹

(b) DEFINITION OF FLUID MILK PROCESSOR.—³⁰

(c) ELIMINATION OF ORDER TERMINATION DATE.—³¹

SEC. 1507. [7 U.S.C. 7983] STUDY OF NATIONAL DAIRY POLICY.

(a) STUDY REQUIRED.—The Secretary of Agriculture shall conduct a comprehensive economic evaluation of the potential direct and indirect effects of the various elements of the national dairy

¹⁸ Sec. 1503(a) amended sec. 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14(a)).

¹⁹ Sec. 1503(b) amended sec. 3 of Public Law 90–484 (7 U.S.C. 450f).

²⁰ Sec. 1504 amended sec. 272(1) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637a(1)).

²¹ Sec. 1505(a) amended sec. 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502).

²² Sec. 1505(b) amended sec. 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)).

²³ Sec. 1505(c) amended sec. 113(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)).

²⁴ Sec. 1505(d) amended sec. 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)).

²⁵ Sec. 1505(e) amended sec. 113(k) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(k)).

²⁶ Sec. 1505(f) amended sec. 116(b) of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 4507(b)).

²⁷ Sec. 1505(g) amended sec. 112 of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 4503).

²⁸ Sec. 1505(h) amended secs. 110(b) and 111(d) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501(b), 4502(d)).

²⁹ Sec. 1506(a) amended sec. 1999C(3) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(3)).

³⁰ Sec. 1506(b) amended sec. 1999C(4) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(4)).

³¹ Sec. 1506(c) amended sec. 1999O of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6414).

policy, including an examination of the effect of the national dairy policy on—

(1) farm price stability, farm profitability and viability, and local rural economies in the United States;

(2) child, senior, and low-income nutrition programs, including impacts on schools and institutions participating in the programs, on program recipients, and other factors; and

(3) the wholesale and retail cost of fluid milk, dairy farms, and milk utilization.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study required by this section.

(c) NATIONAL DAIRY POLICY DEFINED.—In this section, the term “national dairy policy” means the dairy policy of the United States as evidenced by the following policies and programs:

(1) Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937.

(2) Interstate dairy compacts (including proposed compacts described in H.R. 1827 and S. 1157, as introduced in the 107th Congress).

(3) Over-order premiums and State pricing programs.

(4) Direct payments to milk producers.

(5) Federal milk price support program established under section 1401.

(6) Export programs regarding milk and dairy products, such as the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14).

SEC. 1508. [7 U.S.C. 7984] STUDIES OF EFFECTS OF CHANGES IN APPROACH TO NATIONAL DAIRY POLICY AND FLUID MILK IDENTITY STANDARDS.

(a) FEDERAL DAIRY POLICY CHANGES.—The Secretary of Agriculture shall conduct a study of the effects of—

(1) terminating all Federal programs relating to price support and supply management for milk; and

(2) granting the consent of Congress to cooperative efforts by States to manage milk prices and supply.

(b) FLUID MILK IDENTITY STANDARDS.—The Secretary shall conduct a study of the effects of including in the standard of identity for fluid milk a required minimum protein content that is commensurate with the average nonfat solids content of bovine milk produced in the United States.

(c) REPORTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the studies required by this section.

Subtitle F—Administration

SEC. 1601. [7 U.S.C. 7991] ADMINISTRATION GENERALLY.

(a) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

(b) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title shall be final and conclusive.

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this title.

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

(A) chapter 35 of title 44, United States Code (commonly known³² as the “Paperwork Reduction Act”);

(B) 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

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

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

(d) TREATMENT OF ADVANCE PAYMENT OPTION.—The protection that was afforded producers that had an option to elect to accelerate the receipt of any payment under a production flexibility contract payable under the Federal Agriculture Improvement and Reform Act of 1996, as provided by section 525 of Public Law 106–170 (113 Stat. 1928; 7 U.S.C. 7212 note), shall also apply to the option to receive—

(1) the advance payment of direct payments and counter-cyclical payments under subtitle A and subtitle C;

(2) the single payment of compensation for eligible peanut quota holders under section 1310; and

(3) the advance payment of direct payments and counter-cyclical payments under title I of the Food, Conservation, and Energy Act of 2008.

(e) ADJUSTMENT AUTHORITY RELATED TO URUGUAY ROUND COMPLIANCE.—

(1) REQUIRED DETERMINATION; ADJUSTMENT.—If the Secretary determines that expenditures under subtitles A through E that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)), as in effect on the date of enactment of this Act, will exceed such allowable levels for any applicable reporting period, the Secretary shall, to the maximum extent practicable,

³²So in original. Probably should be “known”.

(b) CLERICAL AND CONFORMING AMENDMENTS TO SECTION 1001.—³⁵

(c) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1)³⁶

(2)³⁷

(3)³⁸

(d) TRANSITION.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 2001 crop of any covered commodity.

SEC. 1604. ADJUSTED GROSS INCOME LIMITATION.³⁹

[SEC. 1605. [7 U.S.C. 7993] COMMISSION ON APPLICATION OF PAYMENT LIMITATIONS.⁴⁰]

SEC. 1606. ADJUSTMENTS OF LOANS.⁴¹

SEC. 1607. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.⁴²

SEC. 1608. EXTENSION OF EXISTING ADMINISTRATIVE AUTHORITY REGARDING LOANS.⁴³

SEC. 1609. COMMODITY CREDIT CORPORATION INVENTORY.⁴⁴

SEC. 1610. RESERVE STOCK LEVEL.⁴⁵

SEC. 1611. [7 U.S.C. 7994] FARM RECONSTITUTIONS.

(a) IN GENERAL.—⁴⁶

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study on the effects on the limitation on producers to move quota to a farm other than the farm to which the quota was initially assigned under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.).

(2) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the study.

SEC. 1612. [7 U.S.C. 7995] ASSIGNMENT OF PAYMENTS.

The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of

³⁵ Sec. 1603(b) amended sec. 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

³⁶ Sec. 1603(c)(1) amended sec. 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1).

³⁷ Sec. 1603(c)(2) amended sec. 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–2).

³⁸ Sec. 1603(c)(3) amended sec. 1001C(a) of the Food Security Act of 1985 (7 U.S.C. 1308–3(a)).

³⁹ Sec. 1604 amended the Food Security Act of 1985 by redesignating secs. 1001D and 1001E (7 U.S.C. 1308–4, 1308–5) as secs. 1001E and 1001F, respectively, and inserting a new sec. 1001D.

⁴⁰ Sec. 1623(a) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246, 122 Stat. 1753) repealed sec. 1605.

⁴¹ Sec. 1606 amended sec. 162(b) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7282(b)).

⁴² Sec. 1607 amended sec. 164 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7284).

⁴³ Sec. 1608 amended sec. 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286).

⁴⁴ Sec. 1609 amended sec. 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c).

⁴⁵ Sec. 1610 amended sec. 301(b)(14)(C) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)(14)(C)).

⁴⁶ Sec. 1611(a) amended sec. 316(a)(1)(A)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)(A)(ii)).

payments, shall apply to payments made under the authority of this Act. The producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this section.

SEC. 1613. [7 U.S.C. 7996] EQUITABLE RELIEF FROM INELIGIBILITY FOR LOANS, PAYMENTS, OR OTHER BENEFITS.

(a) **DEFINITIONS.**—In this section:

(1) **AGRICULTURAL COMMODITY.**—The term “agricultural commodity” means any agricultural commodity, food, feed, fiber, or livestock that is subject to a covered program.

(2) **COVERED PROGRAM.**—

(A) **IN GENERAL.**—The term “covered program” means—

(i) a program administered by the Secretary under which price or income support, or production or market loss assistance, is provided to producers of agricultural commodities; and

(ii) a conservation program administered by the Secretary.

(B) **EXCLUSIONS.**—The term “covered program” does not include—

(i) an agricultural credit program carried out under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.); or

(ii) the crop insurance program carried out under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(3) **PARTICIPANT.**—The term “participant” means a participant in a covered program.

(4) **STATE CONSERVATIONIST.**—The term “State Conservationist” means the State Conservationist with respect to a program administered by the Natural Resources Conservation Service.

(5) **STATE DIRECTOR.**—The term “State Director” means the State Executive Director of the Farm Service Agency with respect to a program administered by the Farm Service Agency.

(b) **EQUITABLE RELIEF.**—The Secretary may provide relief to any participant that is determined to be not in compliance with the requirements of a covered program, and therefore ineligible for a loan, payment, or other benefit under the covered program, if the participant—

(1) acting in good faith, relied on the action or advice of the Secretary (including any authorized representative of the Secretary) to the detriment of the participant; or

(2) failed to comply fully with the requirements of the covered program, but made a good faith effort to comply with the requirements.

(c) **FORMS OF RELIEF.**—The Secretary may authorize a participant in a covered program to—

(1) retain loans, payments, or other benefits received under the covered program;

(2) continue to receive loans, payments, and other benefits under the covered program;

(3) continue to participate, in whole or in part, under any contract executed under the covered program;

(4) in the case of a conservation program, reenroll all or part of the land covered by the program; and

(5) receive such other equitable relief as the Secretary determines to be appropriate.

(d) REMEDIAL ACTION.—As a condition of receiving relief under this section, the Secretary may require the participant to take actions designed to remedy any failure to comply with the covered program.

(e) EQUITABLE RELIEF BY STATE DIRECTORS AND STATE CONSERVATIONISTS.—

(1) IN GENERAL.—A State Director, in the case of programs administered by the State Director, and the State Conservationist, in the case of programs administered by the State Conservationist, may grant relief to a participant in accordance with subsections (b) through (d) if—

(A) the amount of loans, payments, and benefits for which relief will be provided to the participant under this subsection is less than \$20,000;

(B) the total amount of loans, payments, and benefits for which relief has been previously provided to the participant under this subsection is not more than \$5,000; and

(C) the total amount of loans, payments, and benefits for which relief is provided to similarly situated participants under this subsection is not more than \$1,000,000, as determined by the Secretary.

(2) CONSULTATION, APPROVAL, AND REVERSAL.—The decision by a State Director or State Conservationist to grant relief under this subsection—

(A) shall not require prior approval by the Administrator of the Farm Service Agency, the Chief of the Natural Resources Conservation Service, or any other officer or employee of the Agency or Service;

(B) shall be made only after consultation with, and the approval of, the Office of General Counsel of the Department of Agriculture; and

(C) is subject to reversal only by the Secretary (who may not delegate the reversal authority).

(3) NONAPPLICABILITY.—The authority of a State Director or State Conservationist under this subsection does not apply to the administration of—

(A) payment limitations under—

(i) sections 1001 through 1001F of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.); or

(ii) a conservation program administered by the Secretary.

(B) highly erodible land and wetland conservation requirements under subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.).

(4) OTHER AUTHORITY.—The authority provided to a State Director and State Conservationist under this subsection is in addition to any other applicable authority and does not limit other authority provided by law or the Secretary.

(f) JUDICIAL REVIEW.—A discretionary decision by the Secretary, the State Director, or the State Conservationist under this section shall be final, and shall not be subject to review under chapter 7 of title 5, United States Code.

(g) REPORTS.—Not later than February 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes for the previous calendar year—

(1) the number of requests for equitable relief under subsections (b) and (e) and the disposition of the requests; and

(2) the number of requests for equitable relief under section 278(d) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6998(d)) and the disposition of the requests.

(h) RELATIONSHIP TO OTHER LAW.—The authority provided in this section is in addition to any other authority provided in this or any other Act.

(i) FINALITY RULE.—⁴⁷

(j) CONFORMING AMENDMENTS.—

(1)⁴⁸

(2)⁴⁹

(3)⁵⁰

SEC. 1614. [7 U.S.C. 7997] TRACKING OF BENEFITS.

As soon as practicable after the date of enactment of this Act, the Secretary shall establish procedures to track the benefits provided, directly or indirectly, to individuals and entities under titles I and II and the amendments made by those titles.

SEC. 1615. [7 U.S.C. 7998] ESTIMATES OF NET FARM INCOME.

In each issuance of projections of net farm income, the Secretary shall include (as determined by the Secretary)—

(1) an estimate of the net farm income earned by commercial producers in the United States; and

(2) an estimate of the net farm income attributable to commercial producers of each of the following:

(A) Livestock.

(B) Loan commodities.

(C) Agricultural commodities other than loan commodities.

SEC. 1616. [7 U.S.C. 7999] AVAILABILITY OF INCENTIVE PAYMENTS FOR CERTAIN PRODUCERS.

(a) INCENTIVE PAYMENTS REQUIRED.—Subject to subsection (b), the Secretary shall make available a total of \$20,000,000 of funds of the Commodity Credit Corporation during the 2003 through 2005 crop years to provide incentive payments to producers of hard white wheat.

⁴⁷ Sec. 1613(i) amended sec. 281(a) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7001(a)).

⁴⁸ Sec. 1613(j)(1) repealed sec. 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a).

⁴⁹ Sec. 1613(j)(2) amended sec. 278(d) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6998(d)).

⁵⁰ Sec. 1613(j)(3) repealed sec. 1230A of the Food Security Act of 1985 (16 U.S.C. 3830a).

(b) CONDITIONS ON IMPLEMENTATION.—The Secretary shall implement subsection (a)—

(1) only with regard to production that meets minimum quality criteria; and

(2) on not more than 2,000,000 acres or the equivalent volume of production.

(c) DEMAND FOR WHEAT.—To be eligible to obtain an incentive payment under subsection (a), a producer shall demonstrate to the satisfaction of the Secretary that buyers and end-users are available for the wheat to be covered by the incentive payment.

[SEC. 1617. [7 U.S.C. 8000] RENEWED AVAILABILITY OF MARKET LOSS ASSISTANCE AND CERTAIN EMERGENCY ASSISTANCE TO PERSONS THAT FAILED TO RECEIVE ASSISTANCE UNDER EARLIER AUTHORITIES.⁵¹]

SEC. 1618. [7 U.S.C. 8001] PRODUCER RETENTION OF ERRONEOUSLY PAID LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS.

Notwithstanding any other provision of law, the Secretary and the Commodity Credit Corporation shall not require producers in Erie County, Pennsylvania, to repay loan deficiency payments and marketing loan gains erroneously paid or determined to have been earned by the Commodity Credit Corporation for certain 1998 and 1999 crops under subtitle C of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231 et seq.). In the case of a producer who has already made the repayment on or before the date of the enactment of this Act, the Commodity Credit Corporation shall reimburse the producer for the full amount of the repayment.

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TITLE II—CONSERVATION

* * * * *

Subtitle F—Other Conservation Programs

* * * * *

SEC. 2507. [16 U.S.C. 3839bb–6] TERMINAL LAKES ASSISTANCE.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE LAND.—The term “eligible land” means privately owned agricultural land (including land in which a State has a property interest as a result of State water law)—

(A) that a landowner voluntarily agrees to sell to a State; and

(B) which—

(i)(I) is ineligible for enrollment as a wetland reserve easement established under the agricultural conservation easement program under subtitle H of the Food Security Act of 1985;

⁵¹Sec. 1623(b) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246, 122 Stat. 1753) repealed sec. 1617.

(II)⁵² is flooded to—

(aa) an average depth of at least 6.5 feet;

or

(bb) a level below which the State determines the management of the water level is beyond the control of the State or landowner;

or

(III)⁵² is inaccessible for agricultural use due to the flooding of adjoining property (such as islands of agricultural land created by flooding);

(ii) is located within a watershed with water rights available for lease or purchase; and

(iii) has been used during at least 5 of the immediately preceding 30 years—

(I) to produce crops or hay; or

(II) as livestock pasture or grazing.

(2) PROGRAM.—The term “program” means the voluntary land purchase program established under this section.

(3) TERMINAL LAKE.—The term “terminal lake” means a lake and its associated riparian and watershed resources that is—

(A) considered flooded because there is no natural outlet for water accumulating in the lake or the associated riparian area such that the watershed and surrounding land is consistently flooded; or

(B) considered terminal because it has no natural outlet and is at risk due to a history of consistent Federal assistance to address critical resource conditions, including insufficient water available to meet the needs of the lake, general uses, and water rights.

(b) ASSISTANCE.—The Secretary shall—

(1) provide grants under subsection (c) for the purchase of eligible land impacted by a terminal lake described in subsection (a)(3)(A); and

(2) provide funds to the Secretary of the Interior pursuant to subsection (e)(2) with assistance in accordance with subsection (d) for terminal lakes described in subsection (a)(3)(B).

(c) LAND PURCHASE GRANTS.—

(1) IN GENERAL.—Using funds provided under subsection (e)(1), the Secretary shall make available land purchase grants to States for the purchase of eligible land in accordance with this subsection.

(2) IMPLEMENTATION.—

(A) AMOUNT.—A land purchase grant shall be in an amount not to exceed the lesser of—

(i) 50 percent of the total purchase price per acre of the eligible land; or

(ii)(I) in the case of eligible land that was used to produce crops or hay, \$400 per acre; and

⁵²The margins of subclauses (II) and (III) (as amended by section 2507 of Public Law 113-79) are so in law and probably should be moved 2 ems to the left in order to conform with the margin for subclause (I).

(II)⁵³ in the case of eligible land that was pasture or grazing land, \$200 per acre.

(B) DETERMINATION OF PURCHASE PRICE.—A State purchasing eligible land with a land purchase grant shall ensure, to the maximum extent practicable, that the purchase price of such land reflects the value, if any, of other encumbrances on the eligible land to be purchased, including easements and mineral rights.

(C) COST-SHARE REQUIRED.—To be eligible to receive a land purchase grant, a State shall provide matching non-Federal funds in an amount equal to 50 percent of the amount described in subparagraph (A), including additional non-Federal funds.

(D) CONDITIONS.—To receive a land purchase grant, a State shall agree—

(i) to ensure that any eligible land purchased is—

(I) conveyed in fee simple to the State; and

(II) free from mortgages or other liens at the time title is transferred;

(ii) to maintain ownership of the eligible land in perpetuity;

(iii) to pay (from funds other than grant dollars awarded) any costs associated with the purchase of eligible land under this section, including surveys and legal fees; and

(iv) to keep eligible land in a conserving use, as defined by the Secretary.

(E) LOSS OF FEDERAL BENEFITS.—Eligible land purchased with a grant under this section shall lose eligibility for any benefits under other Federal programs, including—

(i) benefits under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

(ii) benefits under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

(iii) covered benefits described in section 1001D(b) of the Food Security Act of 1985 (7 U.S.C. 1308–3a).

(F) PROHIBITION.—Any Federal rights or benefits associated with eligible land prior to purchase by a State may not be transferred to any other land or person in anticipation of or as a result of such purchase.

(d) WATER ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Commissioner of Reclamation, may use the funds described in subsection (e)(2) to administer and provide financial assistance to carry out this subsection to provide water and assistance to a terminal lake described in subsection (a)(3)(B) through willing sellers or willing participants only—

(A) to lease water;

(B) to purchase land, water appurtenant to the land, and related interests; and

⁵³The margin of subclause (II) (as amended by section 2507 of Public Law 113–79) is so in law and probably should be moved 2 ems to the left in order to conform with the margin for subclause (I).

(C) to carry out research, support, and conservation activities for associated fish, wildlife, plant, and habitat resources.

(2) EXCLUSIONS.—The Secretary of the Interior may not use this subsection to deliver assistance to the Great Salt Lake in Utah, lakes that are considered dry lakes, or other lakes that do not meet the purposes of this section, as determined by the Secretary of the Interior.

(3) TRANSITIONAL PROVISION.—

(A) IN GENERAL.—Notwithstanding any other provision of this section, any funds made available before the date of enactment of the Agricultural Act of 2014 under a provision of law described in subparagraph (B) shall remain available using the provisions of law (including regulations) in effect on the day before the date of enactment of that Act.

(B) DESCRIBED LAWS.—The provisions of law described in this section are—

(i) section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171) (as in effect on the day before the date of enactment of the Agricultural Act of 2014);

(ii) section 207 of the Energy and Water Development Appropriations Act, 2003 (Public Law 108–7; 117 Stat. 146);

(iii) section 208 of the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103; 119 Stat. 2268, 123 Stat. 2856); and

(iv) section 208 of the Energy and Water Development and Related Agencies Appropriations Act, 2010 (Public Law 111–85; 123 Stat. 2858, 123 Stat. 2967, 125 Stat. 867).

(e) FUNDING.—

(1) COMMODITY CREDIT CORPORATION.—As soon as practicable after the date of enactment of the Agricultural Act of 2014, the Secretary shall transfer to the “Bureau of Reclamation—Water and Related Resources” account \$150,000,000 from the funds of the Commodity Credit Corporation to carry out subsection (d), to remain available until expended.

(2) NO ADDITIONAL FUNDS.—

(A) IN GENERAL.—Nothing in this section authorizes any additional funds to carry out this section.

(B) AVAILABILITY OF FUNDS.—Any funds made available to carry out this section before the date of enactment of the Agriculture Improvement Act of 2018 may remain available until expended.

(f) TERMINATION OF AUTHORITY.—The authority provided by this section shall terminate on October 1, 2023.

TITLE III—TRADE

* * * * *

SEC. 3107. [7 U.S.C. 1736o-1] MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM.

(a) **DEFINITION OF AGRICULTURAL COMMODITY.**—In this section, the term “agricultural commodity” means an agricultural commodity, or a product of an agricultural commodity, that—

- (1) is produced in the United States; or
- (2)(A) is produced in and procured from—
 - (i) a developing country that is a recipient country; or
 - (ii) a developing country in the same region as a recipient country; and

(B) at a minimum, meets each nutritional, quality, and labeling standard of the recipient country, as determined by the Secretary.

(b) **PROGRAM.**—Subject to subsection (1), the Secretary may establish a program, to be known as “McGovern-Dole International Food for Education and Child Nutrition Program”, requiring the procurement of agricultural commodities and the provision of financial and technical assistance to carry out—

(1) preschool and school food for education programs in foreign countries to improve food security, reduce the incidence of hunger, and improve literacy and primary education, particularly with respect to girls; and

(2) maternal, infant, and child nutrition programs for pregnant women, nursing mothers, infants, and children who are 5 years of age or younger.

(c) **ELIGIBLE COMMODITIES AND COST ITEMS.**—Notwithstanding any other provision of law—

(1) any agricultural commodity is eligible to be provided under this section;

(2) as necessary to achieve the purposes of this section, funds appropriated under this section may be used to pay—

- (A)(i) the cost of acquiring agricultural commodities;
- (ii) the costs associated with packaging, enrichment, preservation, and fortification of agricultural commodities;
- (iii) the processing, transportation, handling, and other incidental costs up to the time of the delivery of agricultural commodities free on board vessels in United States ports;
- (iv) the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;

(v) the costs associated with transporting agricultural commodities from United States ports to designated points of entry abroad in the case—

- (I) of landlocked countries;
- (II) of ports that cannot be used effectively because of natural or other disturbances;
- (III) of the unavailability of carriers to a specific country; or
- (IV) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports;

- (vi) the costs associated with transporting the commodities described in subsection (a)(2) from a developing country described in subparagraph (A)(ii) of that subsection to any designated point of entry within the recipient country; and
- (vii) the charges for general average contributions arising out of the ocean transport of agricultural commodities transferred pursuant thereto;
- (B) all or any part of the internal transportation, storage, and handling costs incurred in moving the eligible commodity, if the Secretary determines that—
- (i) payment of the costs is appropriate; and
- (ii) the recipient country is a low income, net food-importing country that—
- (I) meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference; and
- (II) has a national government that is committed to or is working toward, through a national action plan, the goals of the World Declaration on Education for All convened in 1990 in Jomtien, Thailand, and the followup Dakar Framework for Action of the World Education Forum, convened in 2000;
- (C) the costs of activities conducted in the recipient countries by a nonprofit voluntary organization, cooperative, or intergovernmental agency or organization that would enhance the effectiveness of the activities implemented by such entities under this section; and
- (D) the costs of meeting the allowable administrative expenses of private voluntary organizations, cooperatives, or intergovernmental organizations that are implementing activities under this section.
- (d) GENERAL AUTHORITIES.—The Secretary shall—
- (1) implement the program established under this section;
- (2) ensure that the program established under this section is consistent with the foreign policy and development assistance objectives of the United States; and
- (3) consider, in determining whether a country should receive assistance under this section, whether the government of the country is taking concrete steps to improve the preschool and school systems in the country.
- (e) ELIGIBLE ENTITIES.—Assistance may be provided under this section to private voluntary organizations, cooperatives, intergovernmental organizations, governments of developing countries and their agencies, and other organizations.
- (f) PROCEDURES.—
- (1) IN GENERAL.—In carrying out subsection (b), the Secretary shall ensure that procedures are established that—
- (A) provide for the submission of proposals by eligible entities, each of which may include 1 or more recipient countries, for commodities and other assistance under this section;

(B) provide for eligible commodities and assistance on a multiyear basis;

(C) ensure that eligible entities demonstrate the organizational capacity and the ability to develop, implement, monitor, report on, and provide accountability for activities conducted under this section;

(D) provide for the expedited development, review, and approval of proposals submitted in accordance with this section;

(E) ensure to the maximum extent practicable that assistance—

(i) is provided under this section in a timely manner; and

(ii) is available when needed throughout the applicable school year;

(F) ensure monitoring and reporting by eligible entities on the use of commodities and other assistance provided under this section; and

(G) allow for the sale or barter of commodities by eligible entities to acquire funds to implement activities that improve the food security of women and children or otherwise enhance the effectiveness of programs and activities authorized under this section.

(2) PRIORITIES FOR PROGRAM FUNDING.—In carrying out paragraph (1) with respect to criteria for determining the use of commodities and other assistance provided for programs and activities authorized under this section, the Secretary may consider the ability of eligible entities to—

(A) identify and assess the needs of beneficiaries, especially malnourished or undernourished mothers and their children who are 5 years of age or younger, and school-age children who are malnourished, undernourished, or do not regularly attend school;

(B)(i) in the case of preschool and school-age children, target low-income areas where children's enrollment and attendance in school is low or girls' enrollment and participation in preschool or school is low, and incorporate developmental objectives for improving literacy and primary education, particularly with respect to girls; and

(ii) in the case of programs to benefit mothers and children who are 5 years of age or younger, coordinate supplementary feeding and nutrition programs with existing or newly-established maternal, infant, and children programs that provide health-needs interventions, including maternal, prenatal, and postnatal and newborn care;

(C) involve indigenous institutions as well as local communities and governments in the development and implementation of the programs and activities to foster local capacity building and leadership; and

(D) carry out multiyear programs that foster local self-sufficiency and ensure the longevity of programs in the recipient country.

(g) USE OF FOOD AND NUTRITION SERVICE.—The Food and Nutrition Service of the Department of Agriculture may provide tech-

nical advice on the establishment of programs under subsection (b)(1) and on implementation of the programs in the field in recipient countries.

(h) MULTILATERAL INVOLVEMENT.—

(1) IN GENERAL.—The Secretary is urged to engage existing international food aid coordinating mechanisms to ensure multilateral commitments to, and participation in, programs similar to programs supported under this section.

(2) REPORTS.—The Secretary shall annually submit to the Committee on International Relations and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the commitments and activities of governments, including the United States government, in the global effort to reduce child hunger and increase school attendance.

(i) PRIVATE SECTOR INVOLVEMENT.—The Secretary is urged to encourage the support and active involvement of the private sector, foundations, and other individuals and organizations in programs assisted under this section.

(j) GRADUATION.—An agreement with an eligible organization under this section shall include provisions—

(1) to—

(A) sustain the benefits to the education, enrollment, and attendance of children in schools in the targeted communities when the provision of commodities and assistance to a recipient country under a program under this section terminates; and

(B) estimate the period of time required until the recipient country or eligible organization is able to provide sufficient assistance without additional assistance under this section; or

(2) to provide other long-term benefits to targeted populations of the recipient country.

(k) REQUIREMENT TO SAFEGUARD LOCAL PRODUCTION AND USUAL MARKETING.—The requirement of section 403(a) of the Food for Peace Act (7 U.S.C. 1733(a)) applies with respect to the availability of commodities under this section.

(l) FUNDING.—

(1) USE OF COMMODITY CREDIT CORPORATION FUNDS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section \$84,000,000 for fiscal year 2009, to remain available until expended.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2023.

(3) ADMINISTRATIVE EXPENSES.—Funds made available to carry out this section may be used to pay the administrative expenses of the Department of Agriculture or any other Federal agency assisting in the implementation of this section.

(4) PURCHASE OF COMMODITIES.—Of the funds made available to carry out this section, not more than 10 percent shall be used to purchase agricultural commodities described in subsection (a)(2).

【Section 3205 was repealed by section 3201(b)(4) of Public Law 115–334.】

SEC. 3206. [7 U.S.C. 5603a] GLOBAL MARKET STRATEGY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and biennially thereafter, the Secretary of Agriculture shall consult with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the formulation and implementation of a global market strategy for the Department of Agriculture that, to the maximum extent practicable—

- (1) identifies opportunities for the growth of agricultural exports to overseas markets;
- (2) ensures that the resources, programs, and policies of the Department are coordinated with those of other agencies; and
- (3) remove barriers to agricultural trade in overseas markets.

(b) REVIEW.—The consultations under subsection (a) shall include a review of—

- (1) the strategic goals of the Department; and
- (2) the progress of the Department in implementing the strategic goals through the global market strategy.

* * * * *

SEC. 3209.⁵⁴ SENSE OF CONGRESS CONCERNING FOREIGN ASSISTANCE PROGRAMS.

(a) FINDINGS.—Congress finds that—

- (1) the international community faces a continuing epidemic of ethnic, sectarian, and criminal violence;
- (2) poverty, hunger, political uncertainty, and social instability are the principal causes of violence and conflict around the world;
- (3) broad-based, equitable economic growth and agriculture development facilitates political stability, food security, democracy, and the rule of law;
- (4) democratic governments are more likely to advocate and observe international laws, protect civil and human rights, pursue free market economies, and avoid external conflicts;
- (5) the United States Agency for International Development has provided critical democracy and governance assistance to a majority of the nations that successfully made the transition to democratic governments during the past 2 decades;
- (6) 43 of the top 50 consumer nations of American agricultural products were once United States foreign aid recipients;
- (7) in the past 50 years, infant child death rates in the developing world have been reduced by 50 percent, and health conditions around the world have improved more during this period than in any other period;
- (8) the United States Agency for International Development child survival programs have significantly contributed to

⁵⁴P.L. 107–171, 116 Stat. 302, May 13, 2002.

a 10 percent reduction in infant mortality rates worldwide in just the past 8 years;

(9) in providing assistance by the United States and other donors in better seeds and teaching more efficient agricultural techniques over the past 2 decades have helped make it possible to feed an additional 1,000,000,000 people in the world;

(10) despite this progress, approximately 1,200,000,000 people, one-quarter of the world's population, live on less than \$1 per day, and approximately 3,000,000,000 people live on only \$2 per day;

(11) 95 percent of new births occur in developing countries, including the world's poorest countries; and

(12) only ½ percent of the Federal budget is dedicated to international economic and humanitarian assistance.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States foreign assistance programs should play an increased role in the global fight against terrorism to complement the national security objectives of the United States;

(2) the United States should lead coordinated international efforts to provide increased financial assistance to countries with impoverished and disadvantaged populations that are the breeding grounds for terrorism; and

(3) the United States Agency for International Development and the Department of Agriculture should substantially increase humanitarian, economic development, and agricultural assistance to foster international peace and stability and the promotion of human rights.

SEC. 3210.⁵⁵ SENSE OF THE SENATE CONCERNING AGRICULTURAL TRADE.

(a) AGRICULTURE TRADE NEGOTIATING OBJECTIVES.—It is the sense of the Senate that the principal negotiating objective of the United States with respect to agricultural trade in all multilateral, regional, and bilateral negotiations is to obtain competitive opportunities for the export of United States agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of agricultural trade in bulk and value-added commodities by—

(1) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for the export of United States agricultural commodities, giving priority to United States agricultural commodities that are subject to significantly higher tariffs or subsidy regimes of major producing countries;

(2) immediately eliminating all export subsidies on agricultural commodities worldwide while maintaining bona fide food aid and preserving United States agricultural market development and export credit programs that allow the United States to compete with other foreign export promotion efforts;

(3) leveling the playing field for United States agricultural producers by disciplining domestic supports such that no other country can provide greater support, measured as a percentage

⁵⁵P.L. 107-171, 116 Stat. 303, May 13, 2002.

of total agricultural production value, than the United States does while preserving existing green box category to support conservation activities, family farms, and rural communities;

(4) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities for United States agricultural commodities or distort agricultural markets to the detriment of the United States, including—

(A) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on—

(i) requiring price transparency in the operation of state trading enterprises and such other mechanisms; and

(ii) ending discriminatory pricing practices for agricultural commodities that amount to de facto export subsidies so that the enterprises or other mechanisms do not (except in cases of bona fide food aid) sell agricultural commodities in foreign markets at prices below domestic market prices or prices below the full costs of acquiring and delivering agricultural commodities to the foreign markets;

(B) unjustified trade restrictions or commercial requirements affecting new agricultural technologies, including biotechnology;

(C) unjustified sanitary or phytosanitary restrictions, including restrictions that are not based on scientific principles, in contravention of the Agreement on the Application of Sanitary and Phytosanitary Measures (as described in section 101(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(3)));

(D) other unjustified technical barriers to agricultural trade; and

(E) restrictive and nontransparent rules in the administration of tariff rate quotas;

(5) improving import relief mechanisms to recognize the unique characteristics of perishable agricultural commodities;

(6) taking into account whether a party to negotiations with respect to trading in an agricultural commodity has—

(A) failed to adhere to the provisions of an existing bilateral trade agreement with the United States;

(B) circumvented obligations under a multilateral trade agreement to which the United States is a signatory; or

(C) manipulated its currency value to the detriment of United States agricultural producers or exporters; and

(7) otherwise ensuring that countries that accede to the World Trade Organization—

(A) have made meaningful market liberalization commitments in agriculture; and

(B) make progress in fulfilling those commitments over time.

(b) PRIORITY FOR AGRICULTURE TRADE.—It is the sense of the Senate that—

(1) reaching a successful agreement on agriculture should be the top priority of United States negotiators in World Trade Organization talks; and

(2) if the primary export competitors of the United States fail to reduce their trade distorting domestic supports and eliminate export subsidies in accordance with the negotiating objectives expressed in this section, the United States should take steps to increase the leverage of United States negotiators and level the playing field for United States producers, within existing World Trade Organization commitments.

(c) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—It is the sense of the Senate that—

(1) before the United States Trade Representative negotiates a trade agreement that would reduce tariffs on agricultural commodities or require a change in United States agricultural law, the United States Trade Representative should consult with the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;

(2) not less than 48 hours before initialing an agreement relating to agricultural trade negotiated under the auspices of the World Trade Organization, the United States Trade Representative should consult closely with the committees referred to in paragraph (1) regarding—

(A) the details of the agreement;

(B) the potential impact of the agreement on United States agricultural producers; and

(C) any changes in United States law necessary to implement the agreement; and

(3) any agreement or other understanding (whether verbal or in writing) that relates to agricultural trade that is not disclosed to Congress before legislation implementing a trade agreement is introduced in either the Senate or the House of Representatives should not be considered to be part of the agreement approved by Congress and should have no force and effect under United States law or in any dispute settlement body.

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TITLE IV—NUTRITION PROGRAMS

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Subtitle D—Miscellaneous

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SEC. 4402. [7 U.S.C. 3007] SENIORS FARMERS' MARKET NUTRITION PROGRAM.

(a) **FUNDING.**—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use to carry out and expand the seniors farmers' market nutrition program \$20,600,000 for each of fiscal years 2008 through 2023.

(b) **PROGRAM PURPOSES.**—The purposes of the seniors farmers' market nutrition program are—

(1) to provide resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables, honey, and herbs from farmers' markets, roadside stands, and community supported agriculture programs to low-income seniors;

(2) to increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic farmers' markets, roadside stands, and community supported agriculture programs; and

(3) to develop or aid in the development of new and additional farmers' markets, roadside stands, and community supported agriculture programs.

(c) **EXCLUSION OF BENEFITS IN DETERMINING ELIGIBILITY FOR OTHER PROGRAMS.**—The value of any benefit provided to any eligible seniors farmers' market nutrition program recipient under this section shall not be considered to be income or resources for any purposes under any Federal, State, or local law.

(d) **PROHIBITION ON COLLECTION OF SALES TAX.**—Each State shall ensure that no State or local tax is collected within the State on a purchase of food with a benefit distributed under the seniors farmers' market nutrition program.

(e) **REGULATIONS.**—The Secretary may promulgate such regulations as the Secretary considers to be necessary to carry out the seniors farmers' market nutrition program.

(f) **FEDERAL LAW NOT APPLICABLE.**—Section 920 of the Electronic Fund Transfer Act shall not apply to electronic benefit transfer systems established under this section.

SEC. 4404. [2 U.S.C. 1161] BILL EMERSON NATIONAL HUNGER FELLOWS AND MICKEY LELAND INTERNATIONAL HUNGER FELLOWS.

(a) **SHORT TITLE.**—This section may be cited as the “Bill Emerson National Hunger Fellows and Mickey Leland International Hunger Fellows Program Act of 2008”.

(b) **DEFINITIONS.**—In this subsection:

(1) **DIRECTOR.**—The term “Director” means the head of the Congressional Hunger Center.

(2) **FELLOW.**—The term “fellow” means—
(A) a Bill Emerson Hunger Fellow; or
(B) Mickey Leland Hunger Fellow.

(3) **FELLOWSHIP PROGRAMS.**—The term “Fellowship Programs” means the Bill Emerson National Hunger Fellowship Program and the Mickey Leland International Hunger Fellowship Program established under subsection (c)(1).

(c) **FELLOWSHIP PROGRAMS.**—

(1) **IN GENERAL.**—There is established the Bill Emerson National Hunger Fellowship Program and the Mickey Leland International Hunger Fellowship Program.

(2) PURPOSES.—

(A) IN GENERAL.—The purposes of the Fellowship Programs are—

(i) to encourage future leaders of the United States—

(I) to pursue careers in humanitarian and public service;

(II) to recognize the needs of low-income people and hungry people;

(III) to provide assistance to people in need; and

(IV) to seek public policy solutions to the challenges of hunger and poverty;

(ii) to provide training and development opportunities for such leaders through placement in programs operated by appropriate organizations or entities; and

(iii) to increase awareness of the importance of public service.

(B) BILL EMERSON HUNGER FELLOWSHIP PROGRAM.—

The purpose of the Bill Emerson Hunger Fellowship Program is to address hunger and poverty in the United States.

(C) MICKEY LELAND HUNGER FELLOWSHIP PROGRAM.—

The purpose of the Mickey Leland Hunger Fellowship Program is to address international hunger and other humanitarian needs.

(3) ADMINISTRATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall offer to provide a grant to the Congressional Hunger Center to administer the Fellowship Programs.

(B) TERMS OF GRANT.—The terms of the grant provided under subparagraph (A), including the length of the grant and provisions for the alteration or termination of the grant, shall be determined by the Secretary in accordance with this section.

(d) FELLOWSHIPS.—

(1) IN GENERAL.—The Director shall make available Bill Emerson Hunger Fellowships and Mickey Leland Hunger Fellowships in accordance with this subsection.

(2) CURRICULUM.—

(A) IN GENERAL.—The Fellowship Programs shall provide experience and training to develop the skills necessary to train fellows to carry out the purposes described in subsection (c)(2), including—

(i) training in direct service programs for the hungry and other anti-hunger programs in conjunction with community-based organizations through a program of field placement; and

(ii) providing experience in policy development through placement in a governmental entity or non-governmental, nonprofit, or private sector organization.

(B) WORK PLAN.—To carry out subparagraph (A) and assist in the evaluation of the fellowships under paragraph (6), the Director shall, for each fellow, approve a work plan that identifies the target objectives for the fellow in the fellowship, including specific duties and responsibilities relating to those objectives.

(3) PERIOD OF FELLOWSHIP.—

(A) BILL EMERSON HUNGER FELLOW.—A Bill Emerson Hunger Fellowship awarded under this section shall be for not more than 15 months.

(B) MICKEY LELAND HUNGER FELLOW.—A Mickey Leland Hunger Fellowship awarded under this section shall be for not more than 2 years.

(4) SELECTION OF FELLOWS.—

(A) IN GENERAL.—Fellowships shall be awarded pursuant to a nationwide competition established by the Director.

(B) QUALIFICATIONS.—A successful program applicant shall be an individual who has demonstrated—

(i) an intent to pursue a career in humanitarian services and outstanding potential for such a career;

(ii) leadership potential or actual leadership experience;

(iii) diverse life experience;

(iv) proficient writing and speaking skills;

(v) an ability to live in poor or diverse communities; and

(vi) such other attributes as are considered to be appropriate by the Director.

(5) AMOUNT OF AWARD.—

(A) IN GENERAL.—A fellow shall receive—

(i) a living allowance during the term of the Fellowship; and

(ii) subject to subparagraph (B), an end-of-service award.

(B) REQUIREMENT FOR SUCCESSFUL COMPLETION OF FELLOWSHIP.—Each fellow shall be entitled to receive an end-of-service award at an appropriate rate for each month of satisfactory service completed, as determined by the Director.

(C) TERMS OF FELLOWSHIP.—A fellow shall not be considered an employee of—

(i) the Department of Agriculture;

(ii) the Congressional Hunger Center; or

(iii) a host agency in the field or policy placement of the fellow.

(D) RECOGNITION OF FELLOWSHIP AWARD.—

(i) EMERSON FELLOW.—An individual awarded a fellowship from the Bill Emerson Hunger Fellowship shall be known as an “Emerson Fellow”.

(ii) LELAND FELLOW.—An individual awarded a fellowship from the Mickey Leland Hunger Fellowship shall be known as a “Leland Fellow”.

(3) organizational, outreach, and development assistance to increase the viability, growth, and sustainability of businesses that produce value-added agricultural commodities or products.

(b) DEFINITIONS.—In this section:

(1) PROGRAM.—The term “Program” means the Agriculture Innovation Center Demonstration Program established under subsection (c).

(2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(c) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a demonstration program, to be known as the “Agriculture Innovation Center Demonstration Program” under which the Secretary shall—

(1) make grants to assist eligible entities in establishing Agriculture Innovation Centers to enable agricultural producers to obtain the assistance described in subsection (a); and

(2) provide assistance to eligible entities in establishing Agriculture Innovation Centers through the research and technical services of the Department of Agriculture.

(d) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—An entity shall be eligible for a grant and assistance described in subsection (c) to establish an Agriculture Innovation Center if—

(A) the entity—

(i) has provided services similar to the services described in subsection (a); or

(ii) demonstrates the capability of providing such services;

(B) the application of the entity for the grant and assistance includes a plan, in accordance with regulations promulgated by the Secretary, that outlines—

(i) the support for the entity in the agricultural community;

(ii) the technical and other expertise of the entity; and

(iii) the goals of the entity for increasing and improving the ability of local agricultural producers to develop markets and processes for value-added agricultural commodities or products;

(C) the entity demonstrates that adequate resources (in cash or in kind) are available, or have been committed to be made available, to the entity, to increase and improve the ability of local agricultural producers to develop markets and processes for value-added agricultural commodities or products; and

(D) the Agriculture Innovation Center of the entity has a board of directors established in accordance with paragraph (2).

(2) BOARD OF DIRECTORS.—Each Agriculture Innovation Center of an eligible entity shall have a board of directors com-

posed of a diverse group of representatives of public and private entities, including the following:⁵⁶

(A) Two general agricultural organizations with the greatest number of members in the State in which the eligible entity is located.

(B) The department of agriculture, or similar State department or agency, or a State legislator, of the State in which the eligible entity is located.

(C) Four entities representing commodities produced in the State.

(e) GRANTS AND ASSISTANCE.—

(1) IN GENERAL.—Subject to subsection (g), under the Program, the Secretary shall make, on a competitive basis, annual grants to eligible entities.

(2) MAXIMUM AMOUNT OF GRANTS.—A grant under paragraph (1) shall be in an amount that does not exceed the lesser of—

(A) \$1,000,000; or

(B) twice the dollar amount of the resources (in cash or in kind) that the eligible entity demonstrates are available, or have been committed to be made available, to the eligible entity in accordance with subsection (d)(1)(C).

(3) MAXIMUM NUMBER OF GRANTS.—

(A) FIRST FISCAL YEAR OF PROGRAM.—In the first fiscal year of the Program, the Secretary shall make grants to not more than 5 eligible entities.

(B) SECOND FISCAL YEAR OF PROGRAM.—In the second fiscal year of the Program, the Secretary may make grants to—

(i) the eligible entities to which grants were made under subparagraph (A); and

(ii) not more than 10 additional eligible entities.

(4) STATE LIMITATION.—

(A) IN GENERAL.—Subject to subparagraph (B), in the first 3 fiscal years of the Program, the Secretary shall not make a grant under the Program to more than 1 entity in any 1 State.

(B) COLLABORATION.—Nothing in subparagraph (A) precludes a recipient of a grant under the Program from collaborating with any other institution with respect to activities conducted using the grant.

(f) USE OF FUNDS.—An eligible entity to which a grant is made under the Program may use the grant only for the following purposes (but only to the extent that the use is not described in section 210A(d)(2) of the Agricultural Marketing Act of 1946:

(1) Applied research.

(2) Consulting services.

(3) Hiring of employees, at the discretion of the board of directors of the Agriculture Innovation Center of the eligible entity.

⁵⁶Two colons in paragraph (2) are so in law. See amendment made by section 7608(1)(A) of Public Law 115–334.

(4) The making of matching grants, each of which shall be in an amount not to exceed \$5,000, to agricultural producers, except that the aggregate amount of all such matching grants made by the eligible entity shall be not more than \$50,000.

(5) Legal services.

(6) Any other related cost, as determined by the Secretary.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2019 through 2023.

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SEC. 6405. [7 U.S.C. 2655] RURAL FIREFIGHTERS AND EMERGENCY MEDICAL SERVICE ASSISTANCE PROGRAM.

(a) DEFINITION OF EMERGENCY MEDICAL SERVICES.—In this section:

(1) IN GENERAL.—The term “emergency medical services” means resources used by a public or nonprofit entity to deliver medical care outside of a medical facility under emergency conditions that occur as a result of—

(A) the condition of a patient; or

(B) a natural disaster or related condition.

(2) INCLUSION.—The term “emergency medical services” includes services (whether compensated or volunteer) delivered by an emergency medical services provider or other provider recognized by the State involved that is licensed or certified by the State as—

(A) an emergency medical technician or the equivalent (as determined by the State);

(B) a registered nurse;

(C) a physician assistant; or

(D) a physician that provides services similar to services provided by such an emergency medical services provider.

(b) GRANTS.—The Secretary shall award grants to eligible entities—

(1) to enable the entities to provide for improved emergency medical services in rural areas; and

(2) to pay the cost of training firefighters and emergency medical personnel in firefighting, emergency medical practices, and responding to hazardous materials and bioagents in rural areas.

(c) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

(1) be—

(A) a State emergency medical services office;

(B) a State emergency medical services association;

(C) a State office of rural health or an equivalent agency;

(D) a local government entity;

(E) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

(F) a State or local ambulance provider; or

- (G) any other public or nonprofit entity determined appropriate by the Secretary; and
- (2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, that includes—
- (A) a description of the activities to be carried out under the grant; and
- (B) an assurance that the applicant will comply with the matching requirement of subsection (f).
- (d) USE OF FUNDS.—An entity shall use amounts received under a grant made under subsection (b) only in a rural area—
- (1) to hire or recruit emergency medical service personnel;
- (2) to recruit or retain volunteer emergency medical service personnel;
- (3) to train emergency medical service personnel in emergency response, injury prevention, safety awareness, or other topics relevant to the delivery of emergency medical services;
- (4) to fund training to meet State or Federal certification requirements;
- (5) to provide training for firefighters or emergency medical personnel for improvements to the training facility, equipment, curricula, or personnel;
- (6) to develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods (such as distance learning);
- (7) to acquire emergency medical services vehicles, including ambulances;
- (8) to acquire emergency medical services equipment, including cardiac defibrillators;
- (9) to acquire personal protective equipment for emergency medical services personnel as required by the Occupational Safety and Health Administration; or
- (10) to educate the public concerning cardiopulmonary resuscitation (CPR), first aid, injury prevention, safety awareness, illness prevention, or other related emergency preparedness topics.
- (e) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to—
- (1) applications that reflect a collaborative effort by 2 or more of the entities described in subparagraphs (A) through (G) of subsection (c)(1); and
- (2) applications submitted by entities that intend to use amounts provided under the grant to fund activities described in any of paragraphs (1) through (5) of subsection (d).
- (f) MATCHING REQUIREMENT.—The Secretary may not make a grant under this section to an entity unless the entity makes available (directly or through contributions from other public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to at least 5 percent of the amount received under the grant.
- (g) AUTHORIZATION OF APPROPRIATIONS.—
- (1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this section not more than \$30,000,000 for each of fiscal years 2008 through 2012.

(2) ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount appropriated under paragraph (1) for a fiscal year may be used for administrative expenses incurred in carrying out this section.

SEC. 6406. SENSE OF CONGRESS ON RURAL POLICY COORDINATION.

It is the sense of Congress that the President should—

(1) appoint a Special Assistant to the President for Rural Policy;

(2) designate within each Federal agency with jurisdiction over rural programs or activities 1 or more senior officers or employees to provide rural policy leadership for the agency; and

(3) create an intergovernmental rural policy working group comprised of—

(A) the Special Assistant to the President for Rural Policy, who should serve as Chairperson; and

(B) the senior officers and employees designated under paragraph (2).

* * * * *

SEC. 6407. [7 U.S. C. 8107a] RURAL ENERGY SAVINGS PROGRAM.

(a) PURPOSE.—The purpose of this section is to help rural families and small businesses achieve cost savings by providing loans to qualified consumers to implement durable cost-effective energy efficiency measures.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) any public power district, public utility district, or similar entity, or any electric cooperative described in section 501(c)(12) or 1381(a)(2) of the Internal Revenue Code of 1986, that borrowed and repaid, prepaid, or is paying an electric loan made or guaranteed by the Rural Utilities Service (or any predecessor agency);

(B) any entity primarily owned or controlled by 1 or more entities described in subparagraph (A); or

(C) any other entity that is an eligible borrower of the Rural Utilities Service, as determined under section 1710.101 of title 7, Code of Federal Regulations (or a successor regulation).

(2) ENERGY EFFICIENCY MEASURES.—The term “energy efficiency measures” means, for or at property served by an eligible entity, structural improvements and investments in cost-effective, commercial technologies to increase energy efficiency (including cost-effective on- or off-grid renewable energy or energy storage systems).

(3) QUALIFIED CONSUMER.—The term “qualified consumer” means a consumer served by an eligible entity that has the ability to repay a loan made under subsection (d), as determined by the eligible entity.

(4) SECRETARY.—The term “Secretary” means the Secretary of Agriculture, acting through the Administrator of the Rural Utilities Service.

(c) LOANS TO ELIGIBLE ENTITIES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make loans to eligible entities that agree to use the loan funds to make loans to qualified consumers for the purpose of implementing energy efficiency measures.

(2) REQUIREMENTS.—

(A) IN GENERAL.—As a condition of receiving a loan under this subsection, an eligible entity shall—

(i) establish a list of energy efficiency measures that is expected to decrease energy use or costs of qualified consumers;

(ii) prepare an implementation plan for use of the loan funds, including use of any interest to be received pursuant to subsection (d)(1)(A);

(iii) provide for appropriate measurement and verification to ensure—

(I) the effectiveness of the energy efficiency loans made by the eligible entity; and

(II) that there is no conflict of interest in carrying out this section; and

(iv) demonstrate expertise in effective use of energy efficiency measures at an appropriate scale.

(B) REVISION OF LIST OF ENERGY EFFICIENCY MEASURES.—Subject to the approval of the Secretary, an eligible entity may update the list required under subparagraph (A)(i) to account for newly available efficiency technologies.

(C) EXISTING ENERGY EFFICIENCY PROGRAMS.—An eligible entity that, at any time before the date that is 60 days after the date of enactment of this section, has established an energy efficiency program for qualified consumers may use an existing list of energy efficiency measures, implementation plan, or measurement and verification system of that program to satisfy the requirements of subparagraph (A) if the Secretary determines the list, plan, or systems are consistent with the purposes of this section.

(3) NO INTEREST.—A loan under this subsection shall bear no interest.

(4) ELIGIBILITY FOR OTHER LOANS.—The Secretary shall not include any debt incurred by a borrower under this section in the calculation of the debt-equity ratio of the borrower for purposes of eligibility for loans under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).

(5) REPAYMENT.—With respect to a loan under paragraph (1)—

(A) the term shall not exceed 20 years from the date on which the loan is closed; and

(B) except as provided in paragraph (7), the repayment of each advance shall be amortized for a period not to exceed 10 years.

(6) AMOUNT OF ADVANCES.—Any advance of loan funds to an eligible entity in any single year shall not exceed 50 percent of the approved loan amount.

(7) SPECIAL ADVANCE FOR START-UP ACTIVITIES.—

(A) IN GENERAL.—In order to assist an eligible entity in defraying the appropriate start-up costs (as determined

by the Secretary) of establishing new programs or modifying existing programs to carry out subsection (d), the Secretary shall allow an eligible entity to request a special advance.

(B) AMOUNT.—No eligible entity may receive a special advance under this paragraph for an amount that is greater than 4 percent of the loan amount received by the eligible entity under paragraph (1).

(C) REPAYMENT.—Repayment of the special advance—

(i) shall be required during the 10-year period beginning on the date on which the special advance is made; and

(ii) at the election of the eligible entity, may be deferred to the end of the 10-year period.

(8) LIMITATION.—All special advances shall be made under a loan described in paragraph (1) during the first 10 years of the term of the loan.

(9) ACCOUNTING.—The Secretary shall take appropriate steps to streamline the accounting requirements on borrowers under this section while maintaining adequate assurances of the repayment of the loans.

(d) LOANS TO QUALIFIED CONSUMERS.—

(1) TERMS OF LOANS.—Loans made by an eligible entity to qualified consumers using loan funds provided by the Secretary under subsection (c)—

(A) may bear interest, not to exceed 5 percent, to be used for purposes that include—

(i) to establish a loan loss reserve; and

(ii) to offset personnel and program costs of eligible entities to provide the loans;

(B) shall finance energy efficiency measures for the purpose of decreasing energy usage or costs of the qualified consumer by an amount that ensures, to the maximum extent practicable, that a loan term of not more than 10 years will not pose an undue financial burden on the qualified consumer, as determined by the eligible entity;

(C) shall not be used to fund purchases of, or modifications to, personal property unless the personal property is or becomes attached to real property (including a manufactured home) as a fixture;

(D) shall be repaid through charges added to the recurring service bill for the property for, or at which, energy efficiency measures are or will be implemented, on the condition that this requirement does not prohibit—

(i) the voluntary prepayment of a loan by the owner of the property; or

(ii) the use of any additional repayment mechanisms that are—

(I) demonstrated to have appropriate risk mitigation features, as determined by the eligible entity; or

(II) required if the qualified consumer is no longer a customer of the eligible entity; and

(1) DEPARTMENT.—The term “Department” means the Department of Agriculture.

(2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

* * * * *

SEC. 7404. [7 U.S.C. 6934a] BEGINNING FARMER AND RANCHER COORDINATION.

(a) DEFINITIONS.—In this section:

(1) BEGINNING FARMER OR RANCHER.—The term “beginning farmer or rancher” has the meaning given such term in section 2501(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)).

(2) NATIONAL COORDINATOR.—The term “National Coordinator” means the National Beginning Farmer and Rancher Coordinator established under subsection (b)(1).

(3) STATE COORDINATOR.—The term “State coordinator” means a State beginning farmer and rancher coordinator designated under subsection (c)(1)(A).

(4) STATE OFFICE.—The term “State office” means—

- (A) a State office of—
 - (i) the Farm Service Agency;
 - (ii) the Natural Resources Conservation Service;
 - (iii) the Rural Business-Cooperative Service; or
 - (iv) the Rural Utilities Service; or

(B) a regional office of the Risk Management Agency.

(b) NATIONAL BEGINNING FARMER AND RANCHER COORDINATOR.—

(1) ESTABLISHMENT.—The Secretary shall establish in the Department the position of National Beginning Farmer and Rancher Coordinator.

(2) DUTIES.—

(A) IN GENERAL.—The National Coordinator shall—

(i) advise the Secretary and coordinate activities of the Department on programs, policies, and issues relating to beginning farmers and ranchers; and

(ii) in consultation with the applicable State food and agriculture council, determine whether to approve a plan submitted by a State coordinator under subsection (c)(3)(B).

(B) DISCRETIONARY DUTIES.—Additional duties of the National Coordinator may include—

(i) developing and implementing new strategies—

- (I) for outreach to beginning farmers and ranchers; and

(II) to assist beginning farmers and ranchers with connecting to owners or operators that have ended, or expect to end within 5 years, actively owning or operating a farm or ranch; and

(ii) facilitating interagency and interdepartmental collaboration on issues relating to beginning farmers and ranchers.

(3) REPORTS.—Not less frequently than once each year, the National Coordinator shall distribute within the Department

and make publicly available a report describing the status of steps taken to carry out the duties described in subparagraphs (A) and (B) of paragraph (2).

(4) **CONTRACTS AND COOPERATIVE AGREEMENTS.**—In carrying out the duties under paragraph (2), the National Coordinator may enter into a contract or cooperative agreement with an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)), cooperative extension services (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)), or a nonprofit organization—

(A) to conduct research on the profitability of new farms in operation for not less than 5 years in a region;

(B) to develop educational materials;

(C) to conduct workshops, courses, training, or certified vocational training; or

(D) to conduct mentoring activities.

(c) **STATE BEGINNING FARMER AND RANCHER COORDINATORS.**—

(1) **IN GENERAL.**—

(A) **DESIGNATION.**—The National Coordinator, in consultation with State food and agriculture councils and directors of State offices, shall designate in each State a State beginning farmer and rancher coordinator from among employees of State offices.

(B) **REQUIREMENTS.**—To be designated as a State coordinator, an employee shall—

(i) be familiar with issues relating to beginning farmers and ranchers; and

(ii) have the ability to coordinate with other Federal departments and agencies.

(2) **TRAINING.**—The Secretary shall develop a training plan to provide to each State coordinator knowledge of programs and services available from the Department for beginning farmers and ranchers, taking into consideration the needs of all production types and sizes of agricultural operations.

(3) **DUTIES.**—A State coordinator shall—

(A) coordinate technical assistance at the State level to assist beginning farmers and ranchers in accessing programs of the Department;

(B) develop and submit to the National Coordinator for approval under subsection (b)(2)(A)(ii) a State plan to improve the coordination, delivery, and efficacy of programs of the Department to beginning farmers and ranchers, taking into consideration the needs of all types of production methods and sizes of agricultural operation, at each county and area office in the State;

(C) oversee implementation of an approved State plan described in subparagraph (B);

(D) work with outreach coordinators in the State offices to ensure appropriate information about technical assistance is available at outreach events and activities; and

(E) coordinate partnerships and joint outreach efforts with other organizations and government agencies serving beginning farmers and ranchers.

SEC. 7405. [7 U.S.C. 6934b] AGRICULTURAL YOUTH ORGANIZATION COORDINATOR.

(a) **AUTHORIZATION.**—The Secretary shall establish in the Department the position of Agricultural Youth Organization Coordinator.

(b) **DUTIES.**—The Agricultural Youth Organization Coordinator shall—

(1) promote the role of youth-serving organizations and school-based agricultural education in motivating and preparing young people to pursue careers in the agriculture, food, and natural resources systems;

(2) work to help build youth awareness of the reach and importance of agriculture, across a diversity of fields and disciplines;

(3) identify short-term and long-term interests of the Department and provide opportunities, resources, input, and coordination with programs and agencies of the Department to youth-serving organizations and school-based agricultural education, including the development of internship opportunities;

(4) share, internally and externally, the extent to which active steps are being taken to encourage collaboration with, and support of, youth-serving organizations and school-based agricultural education;

(5) provide information to youth involved in food and agriculture organizations concerning the availability of, and eligibility requirements for, participation in agricultural programs, with particular emphasis on beginning farmer and rancher programs;

(6) serve as a resource for assisting youth involved in food and agriculture organizations in applying for participation in agriculture; and

(7) advocate on behalf of youth involved in food and agriculture organizations in interactions with employees of the Department.

(c) **CONTRACTS AND COOPERATIVE AGREEMENTS.**—For purposes of carrying out the duties under subsection (b), the Agricultural Youth Organization Coordinator shall consult with the cooperative extension and the land-grant university systems, and may enter into contracts or cooperative agreements with the research centers of the Agricultural Research Service, cooperative extension and the land-grant university systems, non-land-grant colleges of agriculture, or nonprofit organizations for—

(1) the conduct of regional research on the profitability of small farms;

(2) the development of educational materials;

(3) the conduct of workshops, courses, and certified vocational training;

(4) the conduct of mentoring activities; or

(5) the provision of internship opportunities.

SEC. 7406. SENSE OF CONGRESS REGARDING DOUBLING OF FUNDING FOR AGRICULTURAL RESEARCH.

It is the sense of Congress that—

(1) Federal funding for food and agricultural research has been essentially constant for 2 decades, putting at risk the sci-

entific base on which food and agricultural advances have been made;

(2) the resulting increase in the relative proportion of private sector, industry investments in food and agricultural research has led to questions about the independence and objectivity of research and outreach conducted by the Federal and university research sectors; and

(3) funding for food and agricultural research should be at least doubled over the next 5 fiscal years—

(A) to restore the balance between public and private sector funding for food and agricultural research; and

(B) to maintain the scientific base on which food and agricultural advances are made.

SEC. 7407. [7 U.S.C. 5925c] ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.

(a) IN GENERAL.—The Secretary shall collect and report data on the production and marketing of organic agricultural products.

(b) REQUIREMENTS.—In carrying out subsection (a), the Secretary shall, at a minimum—

(1) collect and distribute comprehensive reporting of prices relating to organically produced agricultural products;

(2) conduct surveys and analysis and publish reports relating to organic production, handling, distribution, retail, and trend studies (including consumer purchasing patterns); and

(3) develop surveys and report statistical analysis on organically produced agricultural products.

(c) REPORT.—Not later than 180 days after the date of enactment of this subsection and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) describes the progress that has been made in implementing this section;

(2) describes how data collection agencies (such as the Agricultural Marketing Service and the National Agricultural Statistics Service) are coordinating with data user agencies (such as the Risk Management Agency) to ensure that data collected under this section can be used by data user agencies, including by the Risk Management Agency to offer price elections for all organic crops; and

(3) identifies any additional production and marketing data needs.

(d) FUNDING.—

(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

(A) \$5,000,000 for each of the periods of fiscal years 2008 through 2012 and 2014 through 2018; and

(B) \$5,000,000 for the period of fiscal years 2019 through 2023.

(2) DISCRETIONARY FUNDING.—In addition to funds made available under paragraph (1), there are authorized to be appropriated to carry out this section not more than \$5,000,000

for each of fiscal years 2008 through 2023, to remain available until expended.

SEC. 7408. [7 U.S.C. 5925d] INTERNATIONAL ORGANIC RESEARCH COLLABORATION.

The Secretary, acting through the Agricultural Research Service (including the National Agricultural Library) and the Economic Research Service, shall facilitate access by research and extension professionals, farmers, and other interested persons in the United States to, and the use by those persons of, organic research conducted outside the United States.

TITLE IX—ENERGY

SEC. 9001. [7 U.S.C. 8101] DEFINITIONS.

Except as otherwise provided, in this title:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) **ADVISORY COMMITTEE.**—The term “Advisory Committee” means the Biomass Research and Development Technical Advisory Committee established by section 9008(d)(1).

(3) **ADVANCED BIOFUEL.**—

(A) **IN GENERAL.**—The term “advanced biofuel” means fuel derived from renewable biomass other than corn kernel starch.

(B) **INCLUSIONS.**—Subject to subparagraph (A), the term “advanced biofuel” includes—

(i) biofuel derived from cellulose, hemicellulose, or lignin;

(ii) biofuel derived from sugar and starch (other than ethanol derived from corn kernel starch);

(iii) biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;

(iv) diesel-equivalent fuel derived from renewable biomass, including vegetable oil and animal fat;

(v) biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass;

(vi) butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and

(vii) other fuel derived from cellulosic biomass.

(4) **BIOBASED PRODUCT.**—The term “biobased product” means a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is—

(A) composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials, renewable chemicals, and forestry materials; or

(B) an intermediate ingredient or feedstock.

(5) **BIOFUEL.**—The term “biofuel” means a fuel derived from renewable biomass.

(6) **BIOMASS CONVERSION FACILITY.**—The term “biomass conversion facility” means a facility that converts or proposes to convert renewable biomass into—

- (A) heat;
- (B) power;
- (C) biobased products; or
- (D) advanced biofuels.

(7) **BIOREFINERY.**—The term “biorefinery” means a facility (including equipment and processes) that—

(A) converts renewable biomass or an intermediate ingredient or feedstock of renewable biomass into any 1 or more, or a combination, of—

- (i) biofuels;
- (ii) renewable chemicals; or
- (iii) biobased products; and

(B) may produce electricity.

(8) **BOARD.**—The term “Board” means the Biomass Research and Development Board established by section 9008(c).

(9) **FOREST PRODUCT.**—

(A) **IN GENERAL.**—The term “forest product” means a product made from materials derived from the practice of forestry or the management of growing timber.

(B) **INCLUSIONS.**—The term “forest product” includes—

- (i) pulp, paper, paperboard, pellets, lumber, and other wood products; and
- (ii) any recycled products derived from forest materials.

(10) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(11) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given the term in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)).

(12) **INTERMEDIATE INGREDIENT OR FEEDSTOCK.**—The term “intermediate ingredient or feedstock” means a material or compound made in whole or in significant part from biological products, including renewable agricultural materials (including plant, animal, and marine materials) or forestry materials, that are subsequently used to make a more complex compound or product.

(13) **RENEWABLE BIOMASS.**—The term “renewable biomass” means—

(A) materials, pre-commercial thinnings, or invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) that—

(i) are byproducts of preventive treatments that are removed—

- (I) to reduce hazardous fuels;
- (II) to reduce or contain disease or insect infestation; or
- (III) to restore ecosystem health;

(ii) would not otherwise be used for higher-value products; and

(iii) are harvested in accordance with—

(I) applicable law and land management plans; and

(II) the requirements for—

(aa) old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); and

(bb) large-tree retention of subsection (f) of that section; or

(B) any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

(i) renewable plant material, including—

(I) feed grains;

(II) other agricultural commodities;

(III) other plants and trees; and

(IV) algae; and

(ii) waste material, including—

(I) crop residue;

(II) other vegetative waste material (including wood waste and wood residues);

(III) animal waste and byproducts (including fats, oils, greases, and manure); and

(IV) food waste and yard waste.

(14) RENEWABLE CHEMICAL.—The term “renewable chemical” means a monomer, polymer, plastic, formulated product, or chemical substance produced from renewable biomass.

(15) RENEWABLE ENERGY.—The term “renewable energy” means energy derived from—

(A) a wind, solar, renewable biomass, ocean (including tidal, wave, current, and thermal), geothermal, or hydroelectric source; or

(B) hydrogen derived from renewable biomass or water using an energy source described in subparagraph (A).

(16) RENEWABLE ENERGY SYSTEM.—

(A) IN GENERAL.—Subject to subparagraph (C), the term “renewable energy system” means a system that produces usable energy from a renewable energy source.

(B) INCLUSIONS.—The term “renewable energy system” includes—

(i) distribution components necessary to move energy produced by a system described in subparagraph (A) to the initial point of sale; and

(ii) other components and ancillary infrastructure of a system described in subparagraph (A), such as a storage system.

(C) LIMITATION.—A system described in subparagraph (A) may not include a mechanism for dispensing energy at retail.

(17) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

SEC. 9002. [7 U.S.C. 8102] BIOBASED MARKETS PROGRAM.

(a) FEDERAL PROCUREMENT OF BIOBASED PRODUCTS.—

(1) DEFINITION OF PROCURING AGENCY.—In this subsection, the term “procuring agency” means—

(A) any Federal agency that is using Federal funds for procurement; or

(B) a person that is a party to a contract with any Federal agency, with respect to work performed under such a contract.

(2) PROCUREMENT PREFERENCE.—

(A) IN GENERAL.—

(i) PROCURING AGENCY DUTIES.—Except as provided in clause (ii) and subparagraph (B), after the date specified in applicable guidelines prepared pursuant to paragraph (3), each procuring agency shall—

(I) establish a procurement program, develop procurement specifications, and procure biobased products identified under the guidelines described in paragraph (3) in accordance with this section;

(II) with respect to items described in the guidelines, give a procurement preference to those items that—

(aa) are composed of the highest percentage of biobased products practicable; or

(bb) comply with the regulations issued under section 103 of Public Law 100–556 (42 U.S.C. 6914b–1); and

(III) establish a targeted biobased-only procurement requirement under which the procuring agency shall issue a certain number of biobased-only contracts when the procuring agency is purchasing products, or purchasing services that include the use of products, that are included in a biobased product category designated by the Secretary.

(ii) EXCEPTION.—The requirements of clause (i)(I) to establish a procurement program and develop procurement specifications shall not apply to a person described in paragraph (1)(B).

(B) FLEXIBILITY.—Notwithstanding subparagraph (A), a procuring agency may decide not to procure items described in that subparagraph if the procuring agency determines that the items—

(i) are not reasonably available within a reasonable period of time;

(ii) fail to meet—

(I) the performance standards set forth in the applicable specifications; or

(II) the reasonable performance standards of the procuring agencies; or
(iii) are available only at an unreasonable price.

(C) MINIMUM REQUIREMENTS.—Each procurement program required under this subsection shall, at a minimum—

(i) be consistent with applicable provisions of Federal procurement law;

(ii) ensure that items composed of biobased products will be purchased to the maximum extent practicable;

(iii) include a component to promote the procurement program;

(iv) provide for an annual review and monitoring of the effectiveness of the procurement program; and

(v) adopt 1 of the 2 polices described in subparagraph (D) or (E), or a policy substantially equivalent to either of those policies.

(D) CASE-BY-CASE POLICY.—

(i) IN GENERAL.—Subject to subparagraph (B) and except as provided in clause (ii), a procuring agency adopting the case-by-case policy shall award a contract to the vendor offering an item composed of the highest percentage of biobased products practicable.

(ii) EXCEPTION.—Subject to subparagraph (B), an agency adopting the policy described in clause (i) may make an award to a vendor offering items with less than the maximum biobased products content.

(E) MINIMUM CONTENT STANDARDS.—Subject to subparagraph (B), a procuring agency adopting the minimum content standards policy shall establish minimum biobased products content specifications for awarding contracts in a manner that ensures that the biobased products content required is consistent with this subsection.

(F) CERTIFICATION.—After the date specified in any applicable guidelines prepared pursuant to paragraph (3), contracting offices shall require that vendors certify that the biobased products to be used in the performance of the contract will comply with the applicable specifications or other contractual requirements.

(3) GUIDELINES.—

(A) IN GENERAL.—The Secretary, after consultation with the Administrator, the Administrator of General Services, and the Secretary of Commerce (acting through the Director of the National Institute of Standards and Technology), shall prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this subsection.

(B) REQUIREMENTS.—The guidelines under this paragraph shall—

(i) designate those items (including finished products) that are or can be produced with biobased products (including biobased products for which there is only a single product or manufacturer in the category)

that will be subject to the preference described in paragraph (2);

(ii) designate those intermediate ingredients and feedstocks that are or can be used to produce items that will be subject to the preference described in paragraph (2);

(iii) automatically designate items composed of intermediate ingredients and feedstocks designated under clause (ii), if the content of the designated intermediate ingredients and feedstocks exceeds 50 percent of the item (unless the Secretary determines a different composition percentage is appropriate);

(iv) set forth recommended practices with respect to the procurement of biobased products and items containing such materials;

(v) require reporting of quantities and types of biobased products purchased by procuring agencies;

(vi) promote biobased products, including forest products, that apply an innovative approach to growing, harvesting, sourcing, procuring, processing, manufacturing, or application of biobased products regardless of the date of entry into the marketplace;

(vii) as determined to be necessary by the Secretary based on the availability of data, provide information as to the availability, relative price, performance, and environmental and public health benefits of such materials and items; and

(viii) take effect on the date established in the guidelines, which may not exceed 1 year after publication.

(C) INFORMATION PROVIDED.—Information provided pursuant to subparagraph (B)(v) with respect to a material or item shall be considered to be provided for another item made with the same material or item.

(D) PROHIBITION.—Guidelines issued under this paragraph may not require a manufacturer or vendor of biobased products, as a condition of the purchase of biobased products from the manufacturer or vendor, to provide to procuring agencies more data than would be required to be provided by other manufacturers or vendors offering products for sale to a procuring agency, other than data confirming the biobased content of a product.

(E) QUALIFYING PURCHASES.—The guidelines shall apply with respect to any purchase or acquisition of a procurement item for which—

(i) the purchase price of the item exceeds \$10,000;

or

(ii) the quantity of the items or of functionally-equivalent items purchased or acquired during the preceding fiscal year was at least \$10,000.

(F) REQUIRED DESIGNATIONS.—Not later than 1 year after the date of enactment of this subparagraph, the Secretary shall begin to designate intermediate ingredients or

feedstocks and assembled and finished biobased products in the guidelines issued under this paragraph.

(4) ADMINISTRATION.—

(A) OFFICE OF FEDERAL PROCUREMENT POLICY.—The Office of Federal Procurement Policy, in cooperation with the Secretary, shall—

(i) coordinate the implementation of this subsection with other policies for Federal procurement;

(ii) annually collect the information required to be reported under subparagraph (B) and make the information publicly available;

(iii) take a leading role in informing Federal agencies concerning, and promoting the adoption of and compliance with, procurement requirements for biobased products by Federal agencies; and

(iv) not less than once every 2 years, submit to Congress a report that—

(I) describes the progress made in carrying out this subsection; and

(II) contains a summary of the information reported pursuant to subparagraph (B).

(B) OTHER AGENCIES.—To assist the Office of Federal Procurement Policy in carrying out subparagraph (A)—

(i) each procuring agency shall submit each year to the Office of Federal Procurement Policy, to the maximum extent practicable, information concerning—

(I) actions taken to implement paragraph (2);

(II) the results of the annual review and monitoring program established under paragraph (2)(C)(iv);

(III) the number and dollar value of contracts entered into during the year that include the direct procurement of biobased products;

(IV) the number of service and construction (including renovations) contracts entered into during the year that include language on the use of biobased products; and

(V) the types and dollar value of biobased products actually used by contractors in carrying out service and construction (including renovations) contracts during the previous year; and

(ii) the General Services Administration and the Defense Logistics Agency shall submit each year to the Office of Federal Procurement Policy information concerning, to the maximum extent practicable, the types and dollar value of biobased products purchased by procuring agencies.

(C) PROCUREMENT SUBJECT TO OTHER LAW.—Any procurement by any Federal agency that is subject to regulations of the Administrator under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) shall not be subject to the requirements of this section to the extent that the requirements are inconsistent with the regulations.

(b) LABELING.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall establish a voluntary program under which the Secretary authorizes producers of biobased products to use the label “USDA Certified Biobased Product”.

(2) ELIGIBILITY CRITERIA.—

(A) CRITERIA.—

(i) IN GENERAL.—Not later than 90 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008 and except as provided in clause (ii), the Secretary, in consultation with the Administrator and representatives from small and large businesses, academia, other Federal agencies, and such other persons as the Secretary considers appropriate, shall issue criteria (as of the date of enactment of that Act) for determining which products may qualify to receive the label under paragraph (1).

(ii) EXCEPTION.—Clause (i) shall not apply to final criteria that have been issued (as of the date of enactment of that Act) by the Secretary.

(iii) RENEWABLE CHEMICALS.—Not later than 180 days after the date of enactment of this clause, the Secretary shall update the criteria issued under clause (i) to provide criteria for determining which renewable chemicals may qualify to receive the label under paragraph (1).

(B) REQUIREMENTS.—Criteria issued under subparagraph (A) shall—

(i) encourage the purchase of products with the maximum biobased content;

(ii) provide that the Secretary may designate as biobased for the purposes of the voluntary program established under this subsection finished products that contain significant portions of biobased materials or components; and

(iii) to the maximum extent practicable, be consistent with the guidelines issued under subsection (a)(3).

(3) USE OF LABEL.—

(A) IN GENERAL.—The Secretary shall ensure that the label referred to in paragraph (1) is used only on products that meet the criteria issued pursuant to paragraph (2).

(B) AUDITING AND COMPLIANCE.—The Secretary may carry out such auditing and compliance activities as the Secretary determines to be necessary to ensure compliance with subparagraph (A).

(4) ASSEMBLED AND FINISHED PRODUCTS.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall begin issuing criteria for determining which assembled and finished products may qualify to receive the label under paragraph (1).

(c) RECOGNITION.—The Secretary shall—

(1) establish a program to recognize Federal agencies and private entities that use a substantial amount of biobased products; and

(2) encourage Federal agencies to establish incentives programs to recognize Federal employees or contractors that make exceptional contributions to the expanded use of biobased products.

(d) LIMITATION.—Nothing in this section shall apply to the procurement of motor vehicle fuels, heating oil, or electricity.

(e) INCLUSION.—Effective beginning on the date that is 90 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Architect of the Capitol, the Sergeant at Arms of the Senate, and the Chief Administrative Officer of the House of Representatives shall consider the biobased product designations made under this section in making procurement decisions for the Capitol Complex.

(f) MANUFACTURERS OF RENEWABLE CHEMICALS AND BIOBASED PRODUCTS.—

(1) NAICS CODES.—The Secretary and the Secretary of Commerce shall jointly develop North American Industry Classification System codes for—

- (A) renewable chemicals manufacturers; and
- (B) biobased products manufacturers.

(2) NATIONAL TESTING CENTER REGISTRY.—The Secretary shall establish a national registry of testing centers for biobased products that will serve biobased product manufacturers.

(g) FOREST PRODUCTS LABORATORY COORDINATION.—In determining whether products are eligible for the “USDA Certified Biobased Product” label, the Secretary (acting through the Forest Products Laboratory) shall provide appropriate technical and other assistance to the program and applicants for forest products.

(h) STREAMLINING.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall establish guidelines for an integrated process under which biobased products may be, in 1 expedited approval process—

- (A) determined to be eligible for a Federal procurement preference under subsection (a); and
- (B) approved to use the “USDA Certified Biobased Product” label under subsection (b).

(2) INITIATION.—The Secretary shall ensure that a review of a biobased product under the integrated qualification process established pursuant to paragraph (1) may be initiated on receipt of a recommendation or petition from a manufacturer, vendor, or other interested party.

(3) PRODUCT DESIGNATIONS.—The Secretary may issue a product designation pursuant to subsection (a)(3)(B), or approve the use of the “USDA Certified Biobased Product” label under subsection (b), through streamlined procedures, which shall not be subject to chapter 7 of title 5, United States Code.

(i) REQUIREMENT OF PROCURING AGENCIES.—A procuring agency (as defined in subsection (a)(1)) shall not establish regulations, guidance, or criteria regarding the procurement of biobased products, pursuant to this section or any other law, that impose limitations on that procurement that are more restrictive than the limi-

tations established by the Secretary under the regulations to implement this section.

(j) REPORTS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008 and each year thereafter, the Secretary shall submit to Congress a report on the implementation of this section.

(2) CONTENTS.—Each report under paragraph (1) shall include—

(A) a comprehensive management plan that establishes tasks, milestones, and timelines, organizational roles and responsibilities, and funding allocations for fully implementing this section;

(B) information on the status of implementation of—

(i) item designations (including designation of intermediate ingredients and feedstocks); and

(ii) the voluntary labeling program established under subsection (b); and

(C) the progress made by other Federal agencies in compliance with the biobased procurement requirements, including the quantity of purchases made.

(3) ECONOMIC IMPACT STUDY AND REPORT.—

(A) IN GENERAL.—The Secretary shall conduct a study to assess the economic impact of the biobased products industry, including—

(i) the quantity of biobased products sold;

(ii) the value of the biobased products;

(iii) the quantity of jobs created;

(iv) the quantity of petroleum displaced;

(v) other environmental benefits; and

(vi) areas in which the use or manufacturing of biobased products could be more effectively used, including identifying any technical and economic obstacles and recommending how those obstacles can be overcome.

(B) REPORT.—Not later than 1 year after the date of enactment of this subparagraph, the Secretary shall submit to Congress a report describing the results of the study conducted under subparagraph (A).

(k) FUNDING.—

(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section \$3,000,000 for each of fiscal years 2014 through 2023.

(2) DISCRETIONARY FUNDING.—There is authorized to be appropriated to carry out this section \$3,000,000 for each of fiscal years 2019 through 2023.

(l) BIOBASED PRODUCT INCLUSION.—In this section, the term “biobased product” (as defined in section 9001) includes, with respect to forestry materials, forest products that meet biobased content requirements, notwithstanding the market share the product holds, the age of the product, or whether the market for the product is new or emerging.

(m) RURAL DEVELOPMENT MISSION AREA.—In carrying out this section, except as provided in subsection (g), the Secretary shall act through the rural development mission area.

SEC. 9003. [7 U.S.C. 8103] BIOREFINERY, RENEWABLE CHEMICAL, AND BIOBASED PRODUCT MANUFACTURING ASSISTANCE.

(a) PURPOSE.—The purpose of this section is to assist in the development of new and emerging technologies for the development of advanced biofuels, renewable chemicals, and biobased product manufacturing so as to—

- (1) increase the energy independence of the United States;
- (2) promote resource conservation, public health, and the environment;
- (3) diversify markets for agricultural and forestry products and agriculture waste material; and
- (4) create jobs and enhance the economic development of the rural economy.

(b) DEFINITIONS.—In this section:

(1) BIOBASED PRODUCT MANUFACTURING.—The term “biobased product manufacturing” means development, construction, and retrofitting of technologically new commercial-scale processing and manufacturing equipment and required facilities that will be used to convert renewable chemicals and other biobased outputs of biorefineries into end-user products on a commercial scale.

(2) ELIGIBLE ENTITY.—The term “eligible entity” means an individual, entity, Indian tribe, or unit of State or local government, including a corporation, farm cooperative, farmer cooperative organization, association of agricultural producers, National Laboratory, institution of higher education, rural electric cooperative, public power entity, or consortium of any of those entities.

(3) ELIGIBLE TECHNOLOGY.—The term “eligible technology” means, as determined by the Secretary—

(A) a technology that is being adopted in a viable commercial-scale operation of a biorefinery that produces any 1 or more, or a combination, of—

- (i)⁵⁷ an advanced biofuel;
- (ii) a renewable chemical; or
- (iii) a biobased product; and

(B) a technology not described in subparagraph (A) that has been demonstrated to have technical and economic potential for commercial application in a biorefinery that produces any 1 or more, or a combination, of—

- (i)⁵⁷ an advanced biofuel;
- (ii) a renewable chemical; or
- (iii) a biobased product.

(c) ASSISTANCE.—The Secretary shall make to available to eligible entities guarantees for loans made to fund the development, construction, and retrofitting of commercial-scale biorefineries using eligible technology.

(d) LOAN GUARANTEES.—

(1) SELECTION CRITERIA.—

⁵⁷ Margins for clauses (i)–(iii) of subparagraphs (A) and (B) are so in law.

(A) IN GENERAL.—In approving loan guarantee applications, the Secretary shall establish a priority scoring system that assigns priority scores to each application and only approve applications that exceed a specified minimum, as determined by the Secretary.

(B) FEASIBILITY.—In approving a loan guarantee application, the Secretary shall determine the technical and economic feasibility of the project based on a feasibility study of the project described in the application conducted by an independent third party.

(C) SCORING SYSTEM.—In determining the priority scoring system for loan guarantees under subsection (c), the Secretary shall consider—

(i) whether the applicant has established a market for the advanced biofuel and the byproducts produced;

(ii) whether the area in which the applicant proposes to place the biorefinery has other similar facilities;

(iii) whether the applicant is proposing to use a feedstock not previously used in the production of advanced biofuels;

(iv) whether the applicant is proposing to work with producer associations or cooperatives;

(v) the level of financial participation by the applicant, including support from non-Federal and private sources;

(vi) whether the applicant has established that the adoption of the process proposed in the application will have a positive impact on resource conservation, public health, and the environment;

(vii) whether the applicant can establish that if adopted, the biofuels production technology proposed in the application will not have any significant negative impacts on existing manufacturing plants or other facilities that use similar feedstocks;

(viii) the potential for rural economic development;

(ix) the level of local ownership proposed in the application; and

(x) whether the project can be replicated.

(D) PROJECT DIVERSITY.—In approving loan guarantee applications, the Secretary shall ensure that, to the extent practicable, there is diversity in the types of projects approved for loan guarantees to ensure that as wide a range as possible of technologies, products, and approaches are assisted.

(2) LIMITATIONS.—

(A) MAXIMUM AMOUNT OF LOAN GUARANTEED.—The principal amount of a loan guaranteed under subsection (c) may not exceed \$250,000,000.

(B) MAXIMUM PERCENTAGE OF LOAN GUARANTEED.—

(i) IN GENERAL.—Except as otherwise provided in this subparagraph, a loan guaranteed under subsection (c) shall be in an amount not to exceed 80 per-

cent of the project costs, as determined by the Secretary.

(ii) OTHER DIRECT FEDERAL FUNDING.—The amount of a loan guaranteed for a project under subsection (c) shall be reduced by the amount of other direct Federal funding that the eligible entity receives for the same project.

(iii) AUTHORITY TO GUARANTEE THE LOAN.—The Secretary may guarantee up to 90 percent of the principal and interest due on a loan guaranteed under subsection (c).

(C) LOAN GUARANTEE FUND DISTRIBUTION.—Of the funds made available for loan guarantees for a fiscal year under subsection (g), 50 percent of the funds shall be reserved for obligation during the second half of the fiscal year.

(e) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(f) CONDITION ON PROVISION OF ASSISTANCE.—

(1) IN GENERAL.—As a condition of receiving a grant or loan guarantee under this section, an eligible entity shall ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed, in whole or in part, with the grant or loan guarantee, as the case may be, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code.

(2) AUTHORITY AND FUNCTIONS.—The Secretary of Labor shall have, with respect to the labor standards described in paragraph (1), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App) and section 3145 of title 40, United States Code.

(g) FUNDING.—

(1) MANDATORY FUNDING.—

(A) IN GENERAL.—Subject to subparagraph (B), of the funds of the Commodity Credit Corporation, the Secretary shall use for the cost of loan guarantees under this section, to remain available until expended—

(i) \$100,000,000 for fiscal year 2014;

(ii) \$50,000,000 for each of fiscal years 2015 and 2016;

(iii) \$50,000,000 for fiscal year 2019; and

(iv) \$25,000,000 for fiscal year 2020.

(B) BIOBASED PRODUCT MANUFACTURING.—Of the total amount of funds made available for fiscal years 2014 and 2015 under subparagraph (A), the Secretary may use for the cost of loan guarantees under this section not more than 15 percent of such funds to promote biobased product manufacturing.

(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is author-

(F) \$7,000,000 for each of fiscal years 2019 through 2023.

(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section \$20,000,000 for each of fiscal years 2019 through 2023.

(3) LIMITATION.—Of the funds provided for each fiscal year, not more than 5 percent of the funds shall be made available to eligible producers for production at facilities with a total refining capacity exceeding 150,000,000 gallons per year.

SEC. 9006. [7 U.S.C. 8106] BIODIESEL FUEL EDUCATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall, under such terms and conditions as the Secretary determines to be appropriate, make competitive grants to eligible entities to educate governmental and private entities that operate vehicle fleets, other interested entities (as determined by the Secretary), and the public about the benefits of biodiesel fuel use.

(b) ELIGIBLE ENTITIES.—To receive a grant under subsection (b), an entity shall—

(1) be a nonprofit organization or institution of higher education;

(2) have demonstrated knowledge of biodiesel fuel production, use, or distribution; and

(3) have demonstrated the ability to conduct educational and technical support programs.

(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$2,000,000 for each of fiscal years 2019 through 2023.

SEC. 9007. [7 U.S.C. 8107] RURAL ENERGY FOR AMERICA PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Energy, shall establish a Rural Energy for America Program to promote energy efficiency and renewable energy development for agricultural producers and rural small businesses through—

(1) grants for energy audits and renewable energy development assistance; and

(2) financial assistance for energy efficiency improvements and renewable energy systems.

(b) ENERGY AUDITS AND RENEWABLE ENERGY DEVELOPMENT ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall make competitive grants to eligible entities to provide assistance to agricultural producers and rural small businesses—

(A) to become more energy efficient; and

(B) to use renewable energy technologies and resources.

(2) ELIGIBLE ENTITIES.—An eligible entity under this subsection is—

(A) a unit of State, tribal, or local government;

(B) a land-grant college or university or other institution of higher education;

- (C) a rural electric cooperative or public power entity;
 - (D) a council (as defined in section 1528 of the Agriculture and Food Act of 1981 (16 U.S.C. 3451)); and
 - (E) any other similar entity, as determined by the Secretary.
- (3) **SELECTION CRITERIA.**—In reviewing applications of eligible entities to receive grants under paragraph (1), the Secretary shall consider—
- (A) the ability and expertise of the eligible entity in providing professional energy audits and renewable energy assessments;
 - (B) the geographic scope of the program proposed by the eligible entity in relation to the identified need;
 - (C) the number of agricultural producers and rural small businesses to be assisted by the program;
 - (D) the potential of the proposed program to produce energy savings and environmental benefits;
 - (E) the plan of the eligible entity for performing outreach and providing information and assistance to agricultural producers and rural small businesses on the benefits of energy efficiency and renewable energy development; and
 - (F) the ability of the eligible entity to leverage other sources of funding.
- (4) **USE OF GRANT FUNDS.**—A recipient of a grant under paragraph (1) shall use the grant funds to assist agricultural producers and rural small businesses by—
- (A) conducting and promoting energy audits; and
 - (B) providing recommendations and information on how—
 - (i) to improve the energy efficiency of the operations of the agricultural producers and rural small businesses; and
 - (ii) to use renewable energy technologies and resources in the operations.
- (5) **LIMITATION.**—Grant recipients may not use more than 5 percent of a grant for administrative expenses.
- (6) **COST SHARING.**—A recipient of a grant under paragraph (1) that conducts an energy audit for an agricultural producer or rural small business under paragraph (4) shall require that, as a condition of the energy audit, the agricultural producer or rural small business pay at least 25 percent of the cost of the energy audit, which shall be retained by the eligible entity for the cost of the energy audit.
- (c) **FINANCIAL ASSISTANCE FOR ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY SYSTEMS.**—
- (1) **IN GENERAL.**—
 - (A) **ASSISTANCE.**—In addition to any similar authority, the Secretary shall provide—
 - (i) loan guarantees and grants to agricultural producers and rural small businesses—
 - (I) to purchase renewable energy systems, including systems that may be used to produce and sell electricity; and

(II) to make energy efficiency improvements;
and
(ii) loan guarantees to agricultural producers to purchase and install energy efficient equipment or systems for agricultural production or processing that exceed—

(I) energy efficiency building codes, if applicable;

(II) Federal or State energy efficiency standards, if applicable; and

(III) other energy efficiency standards determined appropriate by the Secretary.

(B) LIMITATIONS.—With respect to loan guarantees under subparagraph (A)(ii)—

(i) if no codes or standards described in such subparagraph apply to the energy efficient equipment or system to be purchased or installed pursuant to such subparagraph, the Secretary shall require, to the maximum extent practicable, such equipment or system to meet the same efficiency measurements as the most efficient available equipment or system in the market; and

(ii) the Secretary shall not provide such a loan guarantee for the purchase or installation of any energy efficient equipment or system unless more than one type of such equipment or system is available in the market.

(2) AWARD CONSIDERATIONS.—In determining the amount of a loan guarantee or grant provided under this section, the Secretary shall take into consideration, as applicable—

(A) the type of renewable energy system to be purchased;

(B) the estimated quantity of energy to be generated by the renewable energy system;

(C) the expected environmental benefits of the renewable energy system;

(D) the quantity of energy savings expected to be derived from the activity, as demonstrated by an energy audit;

(E) the estimated period of time for the energy savings generated by the activity to equal the cost of the activity;

(F) the expected energy efficiency of the renewable energy system; and

(G) other appropriate factors.

(3) LIMITS.—

(A) GRANTS.—The amount of a grant under this subsection shall not exceed 25 percent of the cost of the activity carried out using funds from the grant.

(B) MAXIMUM AMOUNT OF LOAN GUARANTEES.—The amount of a loan guaranteed under this subsection shall not exceed \$25,000,000.

(C) MAXIMUM AMOUNT OF COMBINED GRANT AND LOAN GUARANTEE.—The combined amount of a grant and loan guaranteed under this subsection shall not exceed 75 per-

cent of the cost of the activity funded under this subsection.

(D) LOAN GUARANTEES FOR ENERGY EFFICIENT EQUIPMENT TO AGRICULTURAL PRODUCERS.—Using funds made available under paragraphs (1) and (3) of subsection (f), in each fiscal year the Secretary may use for loan guarantees under paragraph (1)(A)(ii) an amount that does not exceed 15 percent of such funds.

(4) TIERED APPLICATION PROCESS.—

(A) IN GENERAL.—In providing loan guarantees and grants under this subsection, the Secretary shall use a 3-tiered application process that reflects the size of proposed projects in accordance with this paragraph.

(B) TIER 1.—The Secretary shall establish a separate application process for projects for which the cost of the activity funded under this subsection is not more than \$80,000.

(C) TIER 2.—The Secretary shall establish a separate application process for projects for which the cost of the activity funded under this subsection is greater than \$80,000 but less than \$200,000.

(D) TIER 3.—The Secretary shall establish a separate application process for projects for which the cost of the activity funded under this subsection is equal to or greater than \$200,000.

(E) APPLICATION PROCESS.—The Secretary shall establish an application, evaluation, and oversight process that is the most simplified for tier 1 projects and more comprehensive for each subsequent tier.

(d) OUTREACH.—The Secretary shall ensure, to the maximum extent practicable, that adequate outreach relating to this section is being conducted at the State and local levels.

(e) LOWER-COST ACTIVITIES.—

(1) LIMITATION ON USE OF FUNDS.—Except as provided in paragraph (2), the Secretary shall use not less than 20 percent of the funds made available under subsection (f) to provide grants of \$20,000 or less.

(2) EXCEPTION.—Effective beginning on June 30 of each fiscal year, paragraph (1) shall not apply to funds made available under subsection (f) for the fiscal year.

(f) FUNDING.—

(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

(A) \$55,000,000 for fiscal year 2009;

(B) \$60,000,000 for fiscal year 2010;

(C) \$70,000,000 for fiscal year 2011;

(D) \$70,000,000 for fiscal year 2012; and

(E) \$50,000,000 for fiscal year 2014 and each fiscal year thereafter.

(2) AUDIT AND TECHNICAL ASSISTANCE FUNDING.—

(A) IN GENERAL.—Subject to subparagraph (B), of the funds made available for each fiscal year under paragraph (1), 4 percent shall be available to carry out subsection (b).

(B) OTHER USE.—Funds not obligated under subparagraph (A) by April 1 of each fiscal year to carry out subsection (b) shall become available to carry out subsection (c).

(3) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section \$20,000,000 for each of fiscal years 2019 through 2023.

SEC. 9008. [7 U.S.C. 8108] BIOMASS RESEARCH AND DEVELOPMENT.

(a) DEFINITIONS.—In this section:

(1) BIOBASED PRODUCT.—The term “biobased product” means—

(A) an industrial product (including chemicals, materials, and polymers) produced from biomass;

(B) a commercial or industrial product (including animal feed and electric power) derived in connection with the conversion of biomass to fuel; or

(C) carbon dioxide that—

(i) is intended for permanent sequestration or utilization; and

(ii) is a byproduct of the production of the products described in subparagraphs (A) and (B).

(2) DEMONSTRATION.—The term “demonstration” means demonstration of technology in a pilot plant or semi-works scale facility, including a plant or facility located on a farm.

(3) INITIATIVE.—The term “Initiative” means the Biomass Research and Development Initiative established under subsection (e).

(b) COOPERATION AND COORDINATION IN BIOMASS RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of Energy shall coordinate policies and procedures that promote research and development regarding the production of biofuels and biobased products.

(2) POINTS OF CONTACT.—To coordinate research and development programs and activities relating to biofuels and biobased products that are carried out by their respective departments—

(A) the Secretary of Agriculture shall designate, as the point of contact for the Department of Agriculture, an officer of the Department of Agriculture appointed by the President to a position in the Department before the date of the designation, by and with the advice and consent of the Senate; and

(B) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy appointed by the President to a position in the Department before the date of the designation, by and with the advice and consent of the Senate.

(c) BIOMASS RESEARCH AND DEVELOPMENT BOARD.—

(1) **ESTABLISHMENT.**—There is established the Biomass Research and Development Board to carry out the duties described in paragraph (3).

(2) **MEMBERSHIP.**—The Board shall consist of—

(A) the point of contacts of the Department of Energy and the Department of Agriculture, who shall serve as co-chairpersons of the Board;

(B) a senior officer of each of the Department of the Interior, the Environmental Protection Agency, the National Science Foundation, and the Office of Science and Technology Policy, each of whom shall have a rank that is equivalent to the rank of the points of contact; and

(C) at the option of the Secretary of Agriculture and the Secretary of Energy, other members appointed by the Secretaries (after consultation with the Board).

(3) **DUTIES.**—The Board shall—

(A) coordinate research and development activities relating to biofuels and biobased products—

(i) between the Department of Agriculture and the Department of Energy; and

(ii) with other departments and agencies of the Federal Government;

(B) provide recommendations to the points of contact concerning administration of this title;

(C) ensure that—

(i) solicitations are open and competitive with awards made annually; and

(ii) objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest; and

(D) ensure that the panel of scientific and technical peers assembled under subsection (e) to review proposals is composed predominantly of independent experts selected from outside the Departments of Agriculture and Energy.

(4) **FUNDING.**—Each agency represented on the Board is encouraged to provide funds for any purpose under this section.

(5) **MEETINGS.**—The Board shall meet at least quarterly.

(d) **BIOMASS RESEARCH AND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE.**—

(1) **ESTABLISHMENT.**—There is established the Biomass Research and Development Technical Advisory Committee to carry out the duties described in paragraph (3).

(2) **MEMBERSHIP.**—

(A) **IN GENERAL.**—The Advisory Committee shall consist of—

(i) an individual affiliated with the biofuels industry;

(ii) an individual affiliated with the biobased industrial and commercial products industry;

(iii) an individual affiliated with an institution of higher education who has expertise in biofuels and biobased products;

(iv) 2 prominent engineers or scientists from government or academia who have expertise in biofuels and biobased products;

(v) an individual affiliated with a commodity trade association;

(vi) 2 individuals affiliated with environmental or conservation organizations;

(vii) an individual associated with State government who has expertise in biofuels and biobased products;

(viii) an individual with expertise in energy and environmental analysis;

(ix) an individual with expertise in the economics of biofuels and biobased products;

(x) an individual with expertise in agricultural economics;

(xi) an individual with expertise in plant biology and biomass feedstock development;

(xii) an individual with expertise in agronomy, crop science, or soil science;

(xiii) an individual with expertise in carbon dioxide capture, utilization, and sequestration; and

(xiv) at the option of the points of contact, other members.

(B) APPOINTMENT.—The members of the Advisory Committee shall be appointed by the points of contact.

(3) DUTIES.—The Advisory Committee shall—

(A) advise the points of contact with respect to the Initiative; and

(B) evaluate and make recommendations in writing to the Board regarding whether—

(i) funds authorized for the Initiative are distributed and used in a manner that is consistent with the objectives, purposes, and considerations of the Initiative;

(ii) solicitations are open and competitive with awards made annually;

(iii) objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest;

(iv) the points of contact are funding proposals under this title that are selected on the basis of merit, as determined by an independent panel of scientific and technical peers predominantly from outside the Departments of Agriculture and Energy; and

(v) activities under this title are carried out in accordance with this title.

(4) COORDINATION.—To avoid duplication of effort, the Advisory Committee shall coordinate its activities with those of other Federal advisory committees working in related areas.

(5) MEETINGS.—The Advisory Committee shall meet at least quarterly.

(6) TERMS.—Members of the Advisory Committee shall be appointed for a term of 3 years.

(e) BIOMASS RESEARCH AND DEVELOPMENT INITIATIVE.—

(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of Energy, acting through their respective points of contact and in consultation with the Board, shall establish and carry out a Biomass Research and Development Initiative under which competitively awarded grants, contracts, and financial assistance are provided to, or entered into with, eligible entities to carry out research on and development and demonstration of—

(A) biofuels and biobased products; and

(B) the methods, practices, and technologies, for the production of biofuels and biobased products.

(2) OBJECTIVES.—The objectives of the Initiative are to develop—

(A) technologies and processes necessary for abundant commercial production of biofuels at prices competitive with fossil fuels;

(B) high-value biobased products—

(i) to enhance the economic viability of biofuels and power;

(ii) to serve as substitutes for petroleum-based feedstocks and products;

(iii) to enhance the value of coproducts produced using the technologies and processes; and

(iv) to permanently sequester or utilize carbon dioxide described in subsection (a)(1)(C); and

(C) a diversity of economically and environmentally sustainable domestic sources of renewable biomass for conversion to biofuels, bioenergy, and biobased products.

(3) TECHNICAL AREAS.—The Secretary of Agriculture and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency and heads of other appropriate departments and agencies (referred to in this subsection as the “Secretaries”), shall direct the Initiative in the 3 following areas:

(A) FEEDSTOCKS DEVELOPMENT.—Research, development, and demonstration activities regarding feedstocks and feedstock logistics (including the harvest, handling, transport, preprocessing, and storage) relevant to production of raw materials for conversion to biofuels and biobased products.

(B) BIOFUELS AND BIOBASED PRODUCTS DEVELOPMENT.—Research, development, and demonstration activities to support—

(i) the development of diverse cost-effective technologies for the use of cellulosic biomass in the production of biofuels and biobased products;

(ii) product diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds, and cogenerated power) that potentially can increase the feasibility of fuel production in a biorefinery; and

(iii) the development of technologies to permanently sequester or utilize carbon dioxide described in subsection (a)(1)(C).

(C) BIOFUELS DEVELOPMENT ANALYSIS.—

(i) STRATEGIC GUIDANCE.—The development of analysis that provides strategic guidance for the application of renewable biomass technologies to improve sustainability and environmental quality, cost effectiveness, security, and rural economic development.

(ii) ENERGY AND ENVIRONMENTAL IMPACT.—Development of systematic evaluations of the impact of expanded biofuel production on the environment (including forest land) and on the food supply for humans and animals, including the improvement and development of tools for life cycle analysis of current and potential biofuels.

(iii) ASSESSMENT OF FEDERAL LAND.—Assessments of the potential of Federal land resources to increase the production of feedstocks for biofuels and biobased products, consistent with the integrity of soil and water resources and with other environmental considerations.

(4) ADDITIONAL CONSIDERATIONS.—Within the technical areas described in paragraph (3), the Secretaries shall support research and development—

(A) to create continuously expanding opportunities for participants in existing biofuels production by seeking synergies and continuity with current technologies and practices;

(B) to maximize the environmental, economic, and social benefits of production of biofuels and derived biobased products on a large scale; and

(C) to facilitate small-scale production and local and on-farm use of biofuels, including the development of small-scale gasification technologies for production of biofuel from cellulosic feedstocks.

(5) ELIGIBILITY.—To be eligible for a grant, contract, or assistance under this section, an applicant shall be—

(A) an institution of higher education;

(B) a National Laboratory;

(C) a Federal research agency;

(D) a State research agency;

(E) a private sector entity;

(F) a nonprofit organization; or

(G) a consortium of 2 or more entities described in subparagraphs (A) through (F).

(6) ADMINISTRATION.—

(A) IN GENERAL.—After consultation with the Board, the points of contact shall—

(i) publish annually 1 or more joint requests for proposals for grants, contracts, and assistance under this subsection;

(ii) require that grants, contracts, and assistance under this section be awarded based on a scientific

peer review by an independent panel of scientific and technical peers;

(iii) give special consideration to applications that—

(I) involve a consortia of experts from multiple institutions;

(II) encourage the integration of disciplines and application of the best technical resources; and

(III) increase the geographic diversity of demonstration projects; and

(iv) require that the technical areas described in each of subparagraphs (A), (B), and (C) of paragraph (3) receive not less than 15 percent of funds made available to carry out this section.

(B) COST SHARE.—

(i) RESEARCH AND DEVELOPMENT PROJECTS.—

(I) IN GENERAL.—Except as provided in subclause (II), the non-Federal share of the cost of a research or development project under this section shall be not less than 20 percent.

(II) REDUCTION.—The Secretary of Agriculture or the Secretary of Energy, as appropriate, may reduce the non-Federal share required under subclause (I) if the appropriate Secretary determines the reduction to be necessary and appropriate.

(ii) DEMONSTRATION AND COMMERCIAL PROJECTS.—

The non-Federal share of the cost of a demonstration or commercial project under this section shall be not less than 50 percent.

(C) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary of Agriculture and the Secretary of Energy shall ensure that applicable research results and technologies from the Initiative are—

(i) adapted, made available, and disseminated, as appropriate; and

(ii) included in the best practices database established under section 1672C(e) of the Food, Agriculture, Conservation, and Trade Act of 1990.

(f) ADMINISTRATIVE SUPPORT AND FUNDS.—

(1) IN GENERAL.—The Secretary of Energy and the Secretary of Agriculture may provide such administrative support and funds of the Department of Energy and the Department of Agriculture to the Board and the Advisory Committee as are necessary to enable the Board and the Advisory Committee to carry out their duties under this section.

(2) OTHER AGENCIES.—The heads of the agencies referred to in subsection (c)(2)(B), and the other members of the Board appointed under subsection (c)(2)(C), are encouraged to provide administrative support and funds of their respective agencies to the Board and the Advisory Committee.

(3) LIMITATION.—Not more than 4 percent of the amount made available for each fiscal year under subsection (h) may

be used to pay the administrative costs of carrying out this section.

(g) REPORTS.—For each fiscal year for which funds are made available to carry out this section, the Secretary of Energy and the Secretary of Agriculture shall jointly submit to Congress a detailed report on—

(1) the status and progress of the Initiative, including a report from the Advisory Committee on whether funds appropriated for the Initiative have been distributed and used in a manner that is consistent with the objectives and requirements of this section;

(2) the general status of cooperation and research and development efforts carried out at each agency with respect to biofuels and biobased products; and

(3) the plans of the Secretary of Energy and the Secretary of Agriculture for addressing concerns raised in the report, including concerns raised by the Advisory Committee.

(h) FUNDING.—

(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use to carry out this section, to remain available until expended—

(A) \$20,000,000 for fiscal year 2009;

(B) \$28,000,000 for fiscal year 2010;

(C) \$30,000,000 for fiscal year 2011;

(D) \$40,000,000 for fiscal year 2012; and

(E) \$3,000,000 for each of fiscal years 2014 through 2017.

(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section \$20,000,000 for each of fiscal years 2014 through 2023.

[Section 9009 was repealed by section 9008 of Public Law 115-334.]

SEC. 9010. [7 U.S.C. 8110] FEEDSTOCK FLEXIBILITY PROGRAM FOR BIOENERGY PRODUCERS.

(a) DEFINITIONS.—In this section:

(1) BIOENERGY.—The term “bioenergy” means fuel grade ethanol and other biofuel.

(2) BIOENERGY PRODUCER.—The term “bioenergy producer” means a producer of bioenergy that uses an eligible commodity to produce bioenergy under this section.

(3) ELIGIBLE COMMODITY.—The term “eligible commodity” means a form of raw or refined sugar or in-process sugar that is eligible to be marketed in the United States for human consumption or to be used for the extraction of sugar for human consumption.

(4) ELIGIBLE ENTITY.—The term “eligible entity” means an entity located in the United States that markets an eligible commodity in the United States.

(b) FEEDSTOCK FLEXIBILITY PROGRAM.—

(1) IN GENERAL.—

(A) PURCHASES AND SALES.—For each of the 2008 through 2023 crops, the Secretary shall purchase eligible

commodities from eligible entities and sell such commodities to bioenergy producers for the purpose of producing bioenergy in a manner that ensures that section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272) is operated at no cost to the Federal Government by avoiding forfeitures to the Commodity Credit Corporation.

(B) **COMPETITIVE PROCEDURES.**—In carrying out the purchases and sales required under subparagraph (A), the Secretary shall, to the maximum extent practicable, use competitive procedures, including the receiving, offering, and accepting of bids, when entering into contracts with eligible entities and bioenergy producers, provided that such procedures are consistent with the purposes of subparagraph (A).

(C) **LIMITATION.**—The purchase and sale of eligible commodities under subparagraph (A) shall only be made in crop years in which such purchases and sales are necessary to ensure that the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272) is operated at no cost to the Federal Government by avoiding forfeitures to the Commodity Credit Corporation.

(2) **NOTICE.**—

(A) **IN GENERAL.**—As soon as practicable after the date of enactment of the Food, Conservation, and Energy Act of 2008 and each September 1 thereafter through September 1, 2023, the Secretary shall provide notice to eligible entities and bioenergy producers of the quantity of eligible commodities that shall be made available for purchase and sale for the crop year following the date of the notice under this section.

(B) **REESTIMATES.**—Not later than the January 1, April 1, and July 1 of the calendar year following the date of a notice under subparagraph (A), the Secretary shall reestimate the quantity of eligible commodities determined under subparagraph (A), and provide notice and make purchases and sales based on such reestimates.

(3) **COMMODITY CREDIT CORPORATION INVENTORY.**—

(A) **DISPOSITIONS.**—

(i) **BIOENERGY AND GENERALLY.**—Except as provided in clause (ii), to the extent that an eligible commodity is owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)), the Secretary shall—

(I) sell the eligible commodity to bioenergy producers under this section consistent with paragraph (1)(C);

(II) dispose of the eligible commodity in accordance with section 156(f)(2) of that Act; or

(III) otherwise dispose of the eligible commodity through the buyback of certificates of quota entry.

(ii) PRESERVATION OF OTHER AUTHORITIES.—Nothing in this section limits the use of other authorities for the disposition of an eligible commodity held in the inventory of the Commodity Credit Corporation for nonfood use or otherwise in a manner that does not increase the net quantity of sugar available for human consumption in the United States market, consistent with section 156(f)(1) of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272(f)(1)).

(B) EMERGENCY SHORTAGES.—Notwithstanding subparagraph (A), if there is an emergency shortage of sugar for human consumption in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event, the Secretary may dispose of an eligible commodity that is owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)) through disposition as authorized under section 156(f) of that Act or through the use of any other authority of the Commodity Credit Corporation.

(4) TRANSFER RULE; STORAGE FEES.—

(A) GENERAL TRANSFER RULE.—Except with regard to emergency dispositions under paragraph (3)(B) and as provided in subparagraph (C), the Secretary shall ensure that bioenergy producers that purchase eligible commodities pursuant to this section take possession of the eligible commodities within 30 calendar days of the date of such purchase from the Commodity Credit Corporation.

(B) PAYMENT OF STORAGE FEES PROHIBITED.—

(i) IN GENERAL.—The Secretary shall, to the maximum extent practicable, carry out this section in a manner that ensures no storage fees are paid by the Commodity Credit Corporation in the administration of this section.

(ii) EXCEPTION.—Clause (i) shall not apply with respect to any commodities owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)).

(C) OPTION TO PREVENT STORAGE FEES.—

(i) IN GENERAL.—The Secretary may enter into contracts with bioenergy producers to sell eligible commodities to such producers prior in time to entering into contracts with eligible entities to purchase the eligible commodities to be used to satisfy the contracts entered into with the bioenergy producers.

(ii) SPECIAL TRANSFER RULE.—If the Secretary makes a sale and purchase referred to in clause (i), the Secretary shall ensure that the bioenergy producer

that purchased eligible commodities takes possession of such commodities within 30 calendar days of the date the Commodity Credit Corporation purchases the eligible commodities.

(5) **RELATION TO OTHER LAWS.**—If sugar that is subject to a marketing allotment under part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is the subject of a payment under this section, the sugar shall be considered marketed and shall count against a processor's allocation of an allotment under such part, as applicable.

(6) **FUNDING.**—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation, including the use of such sums as are necessary, to carry out this section.

SEC. 9011. [7 U.S.C. 8111] BIOMASS CROP ASSISTANCE PROGRAM.

(a) **DEFINITIONS.**—In this section:

(1) **BCAP.**—The term “BCAP” means the Biomass Crop Assistance Program established under this section.

(2) **BCAP PROJECT AREA.**—The term “BCAP project area” means an area that—

(A) has specified boundaries that are submitted to the Secretary by the project sponsor and subsequently approved by the Secretary;

(B) includes producers with contract acreage that will supply a portion of the renewable biomass needed by a biomass conversion facility; and

(C) is physically located within an economically practicable distance from the biomass conversion facility.

(3) **CONTRACT ACREAGE.**—The term “contract acreage” means eligible land that is covered by a BCAP contract entered into with the Secretary.

(4) **ELIGIBLE CROP.**—

(A) **IN GENERAL.**—The term “eligible crop” means a crop of renewable biomass.

(B) **EXCLUSIONS.**—The term “eligible crop” does not include—

(i) any crop that is eligible to receive payments under title I of the Agricultural Act of 2014 or an amendment made by that title; or

(ii) any plant that is invasive or noxious or species or varieties of plants that credible risk assessment tools or other credible sources determine are potentially invasive, as determined by the Secretary in consultation with other appropriate Federal or State departments and agencies.

(5) **ELIGIBLE LAND.**—

(A) **IN GENERAL.**—The term “eligible land” includes—

(i) agricultural and nonindustrial private forest lands (as defined in section 5(c) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a(c)); and

(ii) land enrolled in the conservation reserve program established under subchapter B of chapter I of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.), or the Agricultural Conservation Easement Program established under subtitle H of title XII of that Act, under a contract that will expire at the end of the current fiscal year.

(B) EXCLUSIONS.—The term “eligible land” does not include—

(i) Federal- or State-owned land;

(ii) land that is native sod, as of the date of enactment of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8701 et seq.);

(iii) land enrolled in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.), other than land described in subparagraph (A)(ii); or

(iv) land enrolled in the Agricultural Conservation Easement Program established under subtitle H of title XII of that Act, other than land described in subparagraph (A)(ii).

(6) ELIGIBLE MATERIAL.—

(A) IN GENERAL.—The term “eligible material” means renewable biomass harvested directly from the land, including crop residue from any crop that is eligible to receive payments under title I of the Agricultural Act of 2014 or an amendment made by that title.

(B) INCLUSIONS.—The term “eligible material” shall only include—

(i) eligible material that is collected or harvested by the eligible material owner—

(I) directly from—

(aa) National Forest System;

(bb) Bureau of Land Management land;

(cc) non-Federal land; or

(dd) land owned by an individual Indian or Indian tribe that is held in trust by the United States for the benefit of the individual Indian or Indian tribe or subject to a restriction against alienation imposed by the United States;

(II) in a manner that is consistent with—

(aa) a conservation plan;

(bb) a forest stewardship plan; or

(cc) a plan that the Secretary determines is equivalent to a plan described in item (aa) or (bb) and consistent with Executive Order 13112 (42 U.S.C. 4321 note; relating to invasive species);

(ii) if woody eligible material, woody eligible material that is produced on land other than contract acreage that—

(I) is a byproduct of a preventative treatment that is removed to reduce hazardous fuel or to reduce or contain disease or insect infestation; and

(II) if harvested from Federal land, is harvested in accordance with section 102(e) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512(e));

(iii) eligible material that is delivered to a qualified biomass conversion facility to be used for heat, power, biobased products, research, or advanced biofuels; and

(iv) algae.

(C) EXCLUSIONS.—The term “eligible material” does not include—

(i) material that is whole grain from any crop that is eligible to receive payments under title I of the Agricultural Act of 2014 or an amendment made by that title, including—

(I) barley, corn, grain sorghum, oats, rice, or wheat;

(II) honey;

(III) mohair;

(IV) oilseeds, including canola, crambe, flaxseed, mustard seed, rapeseed, safflower seed, soybeans, sesame seed, and sunflower seed;

(V) peanuts;

(VI) pulse;

(VII) chickpeas, lentils, and dry peas;

(VIII) dairy products;

(IX) sugar; and

(X) wool and cotton boll fiber;

(ii) animal waste and byproducts, including fat, oil, grease, and manure;

(iii) food waste and yard waste;

(iv) woody eligible material that—

(I) is removed outside contract acreage; and

(II) is not a byproduct of a preventative treatment to reduce hazardous fuel or to reduce or contain disease or insect infestation;

(v) any woody eligible material collected or harvested outside contract acreage that would otherwise be used for existing market products; or

(vi) bagasse.

(7) PRODUCER.—The term “producer” means an owner or operator of contract acreage that is physically located within a BCAP project area.

(8) PROJECT SPONSOR.—The term “project sponsor” means—

(A) a group of producers; or

(B) a biomass conversion facility.

(9) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term “socially disadvantaged farmer or rancher” has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and administer a Biomass Crop Assistance Program to—

(1) support the establishment and production of eligible crops for conversion to bioenergy in selected BCAP project areas; and

(2) assist agricultural and forest land owners and operators with the collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility.

(c) BCAP PROJECT AREA.—

(1) IN GENERAL.—The Secretary shall provide financial assistance to a producer of an eligible crop in a BCAP project area.

(2) SELECTION OF PROJECT AREAS.—

(A) IN GENERAL.—To be considered for selection as a BCAP project area, a project sponsor shall submit to the Secretary a proposal that, at a minimum, includes—

(i) a description of the eligible land and eligible crops of each producer that will participate in the proposed BCAP project area;

(ii) a letter of commitment from a biomass conversion facility that the facility will use the eligible crops intended to be produced in the proposed BCAP project area;

(iii) evidence that the biomass conversion facility has sufficient equity available, as determined by the Secretary, if the biomass conversion facility is not operational at the time the proposal is submitted to the Secretary; and

(iv) any other information about the biomass conversion facility or proposed biomass conversion facility that the Secretary determines necessary for the Secretary to be reasonably assured that the plant will be in operation by the date on which the eligible crops are ready for harvest.

(B) BCAP PROJECT AREA SELECTION CRITERIA.—In selecting BCAP project areas, the Secretary shall consider—

(i) the volume of the eligible crops proposed to be produced in the proposed BCAP project area and the probability that those crops will be used for the purposes of the BCAP;

(ii) the volume of renewable biomass projected to be available from sources other than the eligible crops grown on contract acres;

(iii) the anticipated economic impact in the proposed BCAP project area;

(iv) the opportunity for producers and local investors to participate in the ownership of the biomass conversion facility in the proposed BCAP project area;

(v) the participation rate by—

(I) beginning farmers or ranchers (as defined in accordance with section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a))); or

- (II) socially disadvantaged farmers or ranchers;
- (vi) the impact on soil, water, and related resources;
- (vii) the variety in biomass production approaches within a project area, including (as appropriate)—
 - (I) agronomic conditions;
 - (II) harvest and postharvest practices; and
 - (III) monoculture and polyculture crop mixes;
- (viii) the range of eligible crops among project areas;
- (ix) existing project areas that have received funding under this section and the continuation of funding of such project areas to advance the maturity of such project areas; and
- (x) any additional information that the Secretary determines to be necessary.

(3) CONTRACT.—

(A) IN GENERAL.—On approval of a BCAP project area by the Secretary, each producer in the BCAP project area shall enter into a contract directly with the Secretary.

(B) MINIMUM TERMS.—At a minimum, a contract under this subsection shall include terms that cover—

- (i) an agreement to make available to the Secretary, or to an institution of higher education or other entity designated by the Secretary, such information as the Secretary considers to be appropriate to promote the production of eligible crops and the development of biomass conversion technology;
- (ii) compliance with the highly erodible land conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and the wetland conservation requirements of subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);
- (iii) the implementation of (as determined by the Secretary)—

- (I) a conservation plan;
- (II) a forest stewardship plan; or
- (III) a plan that is equivalent to a conservation or forest stewardship plan; and
- (iv) any additional requirements that Secretary determines to be necessary.

(C) DURATION.—A contract under this subsection shall have a term of not more than—

- (i) 5 years for annual and perennial crops; or
- (ii) 15 years for woody biomass.

(4) RELATIONSHIP TO OTHER PROGRAMS.—In carrying out this subsection, the Secretary shall provide for the preservation of cropland base and yield history applicable to the land enrolled in a BCAP contract.

(5) PAYMENTS.—

(A) IN GENERAL.—The Secretary shall make establishment and annual payments directly to producers to sup-

port the establishment and production of eligible crops on contract acreage.

(B) AMOUNT OF ESTABLISHMENT PAYMENTS.—

(i) IN GENERAL.—Subject to clause (ii), the amount of an establishment payment under this subsection shall be not more than 50 percent of the costs of establishing an eligible perennial crop covered by the contract but not to exceed \$500 per acre, including—

- (I) the cost of seeds and stock for perennials;
- (II) the cost of planting the perennial crop, as determined by the Secretary; and
- (III) in the case of nonindustrial private forestland, the costs of site preparation and tree planting.

(ii) SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.—In the case of socially disadvantaged farmers or ranchers, the costs of establishment may not exceed \$750 per acre.

(C) AMOUNT OF ANNUAL PAYMENTS.—

(i) IN GENERAL.—Subject to clause (ii), the amount of an annual payment under this subsection shall be determined by the Secretary.

(ii) REDUCTION.—The Secretary shall reduce an annual payment by an amount determined to be appropriate by the Secretary, if—

- (I) an eligible crop is used for purposes other than the production of energy at the biomass conversion facility;
- (II) an eligible crop is delivered to the biomass conversion facility;
- (III) the producer receives a payment under subsection (d);
- (IV) the producer violates a term of the contract; or
- (V) the Secretary determines a reduction is necessary to carry out this section.

(D) EXCLUSION.—The Secretary shall not make any BCAP payments on land for which payments are received under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) or the agricultural conservation easement program established under subtitle H of title XII of that Act.

(d) ASSISTANCE WITH COLLECTION, HARVEST, STORAGE, AND TRANSPORTATION.—

(1) IN GENERAL.—The Secretary shall make a payment for the delivery of eligible material to a biomass conversion facility to—

- (A) a producer of an eligible crop that is produced on BCAP contract acreage; or
- (B) a person with the right to collect or harvest eligible material, regardless of whether the eligible material is produced on contract acreage.

(2) PAYMENTS.—

(A) COSTS COVERED.—A payment under this subsection shall be in an amount described in subparagraph (B) for—

- (i) collection;
- (ii) harvest;
- (iii) storage; and
- (iv) transportation to a biomass conversion facility.

(B) AMOUNT.—Subject to paragraph (3), the Secretary may provide matching payments at a rate of up to \$1 for each \$1 per ton provided by the biomass conversion facility, in an amount not to exceed \$20 per dry ton for a period of 2 years.

(3) LIMITATION ON ASSISTANCE FOR BCAP CONTRACT ACREAGE.—As a condition of the receipt of an annual payment under subsection (c), a producer receiving a payment under this subsection for collection, harvest, storage, or transportation of an eligible crop produced on BCAP acreage shall agree to a reduction in the annual payment.

(e) REPORT.—Not later than 4 years after the date of enactment of the Agricultural Act of 2014, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the dissemination by the Secretary of the best practice data and information gathered from participants receiving assistance under this section.

(f) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$25,000,000 for each of fiscal years 2019 through 2023.

(2) COLLECTION, HARVEST, STORAGE, AND TRANSPORTATION PAYMENTS.—Of the amount made available under paragraph (1) for each fiscal year, the Secretary shall use not less than 10 percent, nor more than 50 percent, of the amount to make collection, harvest, transportation, and storage payments under subsection (d)(2).

(3) TECHNICAL ASSISTANCE.—Effective for fiscal year 2014 and each subsequent fiscal year, funds made available under this subsection shall be available for the provision of technical assistance with respect to activities authorized under this section.

【Section 9012 was repealed by section 9011 of Public Law 113–79.】

SEC. 9013. [7 U.S.C. 8113] COMMUNITY WOOD ENERGY AND WOOD INNOVATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) COMMUNITY WOOD ENERGY SYSTEM.—

(A) IN GENERAL.—The term “community wood energy system” means an energy system that—

- (i) produces thermal energy or combined thermal energy and electricity where thermal is the primary energy output;

(ii) services public facilities owned or operated by State or local governments (including schools, town halls, libraries, and other public buildings) or private or nonprofit facilities (including commercial and business facilities, such as hospitals, office buildings, apartment buildings, and manufacturing and industrial buildings); and

(iii) uses woody biomass, including residuals—

(I) that have not been adulterated with glue or other chemical treatments from wood processing facilities, as the primary fuel; and

(II) for which the use of that biomass for energy production does not cause conversion of forests to nonforest use.

(B) INCLUSIONS.—The term “community wood energy system” includes single-facility central heating, district heating systems serving multiple buildings, combined heat and electric systems where thermal energy is the primary energy output, and other related biomass energy systems.

(2) INNOVATIVE WOOD PRODUCT FACILITY.—The term “innovative wood product facility” means a manufacturing or processing plant or mill that produces—

(A) building components or systems that use large panelized wood construction, including mass timber;

(B) wood products derived from nanotechnology or other new technology processes, as determined by the Secretary; or

(C) other innovative wood products that use low-value, low-quality wood, as determined by the Secretary.

(3) MASS TIMBER.—The term “mass timber” includes—

(A) cross-laminated timber;

(B) nail-laminated timber;

(C) glue-laminated timber;

(D) laminated strand lumber; and

(E) laminated veneer lumber.

(4) PROGRAM.—The term “Program” means the Community Wood Energy and Wood Innovation Program established under subsection (b).

(b) COMPETITIVE GRANT PROGRAM.—The Secretary, acting through the Chief of the Forest Service, shall establish a competitive grant program to be known as the “Community Wood Energy and Wood Innovation Program”.

(c) MATCHING GRANTS.—

(1) IN GENERAL.—Under the Program, the Secretary shall make grants to cover not more than 35 percent of the capital cost for installing a community wood energy system or building an innovative wood product facility.

(2) SPECIAL CIRCUMSTANCES.—The Secretary may establish special circumstances, such as in the case of a community wood energy system project or innovative wood product facility project involving a school or hospital in a low-income community, under which grants under the Program may cover up to 50 percent of the capital cost.

(3) SOURCE OF MATCHING FUNDS.—Matching funds required pursuant to this subsection from a grant recipient shall be derived from non-Federal funds.

(d) PROJECT CAP.—The total amount of grants under the Program for a community wood energy system project or innovative wood product facility project may not exceed—

(1) in the case of grants under the general authority provided under subsection (c)(1), \$1,000,000; and

(2) in the case of grants for which the special circumstances apply under subsection (c)(2), \$1,500,000.

(e) SELECTION CRITERIA.—In selecting applicants for grants under the Program, the Secretary shall consider the following:

(1) The energy efficiency of the proposed community wood energy system or innovative wood product facility.

(2) The cost effectiveness of the proposed community wood energy system or innovative wood product facility.

(3) The extent to which the proposed community wood energy system or innovative wood product facility represents the best available commercial technology.

(4) The extent to which the proposed community wood energy system uses the most stringent control technology that has been required or achieved in practice for a wood-fired boiler of similar size and type.

(5)(A) The extent to which the proposed community wood energy system will displace conventional fossil fuel generation.

(B) Whether the proposed community wood energy system minimizes emission increases to the greatest extent possible.

(6) The extent to which the proposed community wood energy system will increase delivered thermal efficiency of the systems replaced.

(7) The extent to which the applicant has demonstrated a high likelihood of project success by completing detailed engineering and design work in advance of the grant application.

(8) Other technical, economic, conservation, and environmental criteria that the Secretary considers appropriate.

(f) GRANT PRIORITIES.—In selecting applicants for grants under the Program, the Secretary shall give priority to proposals that use the most stringent control technology that has been required or achieved in practice for a wood-fired boiler and—

(1) would be carried out in a location where markets are needed for the low-value, low-quality wood;

(2) would be carried out in a location with limited access to natural gas pipelines;

(3) would include the use or retrofitting (or both) of existing sawmill facilities located in a location where the average annual unemployment rate exceeded the national average unemployment rate by more than 1 percent during the previous calendar year; or

(4) would be carried out in a location where the project will aid with forest restoration.

(g) LIMITATIONS.—

(1) CAPACITY OF COMMUNITY WOOD ENERGY SYSTEMS.—A community wood energy system acquired with grant funds under the Program shall not exceed nameplate capacity of 5

megawatts of thermal energy or combined thermal and electric energy.

(2) **FUNDING FOR INNOVATIVE WOOD PRODUCT FACILITIES.**—Not more than 25 percent of funds provided as grants under the Program for a fiscal year may go to applicants proposing innovative wood product facilities, unless the Secretary has received an insufficient number of qualified proposals for community wood energy systems.

(h) **FUNDING.**—There is authorized to be appropriated to carry out the Program \$25,000,000 for each of fiscal years 2019 through 2023.

SEC. 9014. [7 U.S.C. 8115] CARBON UTILIZATION AND BIOGAS EDUCATION PROGRAM.

(a) **DEFINITIONS.**—In this section:

(1) **CARBON DIOXIDE.**—The term “carbon dioxide” means carbon dioxide that is produced as a byproduct of the production of a biobased product.

(2) **ELIGIBLE ENTITY.**—The term “eligible entity” means an entity that—

(A) is—

(i) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code; or

(ii) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)));

(B) has demonstrated knowledge about—

(i) sequestration and utilization of carbon dioxide; or

(ii) aggregation of organic waste from multiple sources into a single biogas system; and

(C) has a demonstrated ability to conduct educational and technical support programs.

(b) **ESTABLISHMENT.**—The Secretary, in consultation with the Secretary of Energy, shall make competitive grants to eligible entities—

(1) to provide education to the public about the economic and emissions benefits of permanent sequestration or utilization of carbon dioxide with a primary objective of providing benefits and opportunities for rural businesses, rural communities, and utilities serving rural communities; or

(2) to provide education to agricultural producers and other stakeholders about opportunities for aggregation of organic waste from multiple sources into a single biogas system.

(c) **FUNDING.**—There are authorized to be appropriated for each of fiscal years 2019 through 2023—

(1) \$1,000,000 to carry out subsection (b)(1); and

(2) \$1,000,000 to carry out subsection (b)(2).

TITLE X—MISCELLANEOUS

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Subtitle B—Disaster Assistance

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SEC. 10104. [7 U.S.C. 1472] ASSISTANCE FOR LIVESTOCK PRODUCERS.

(a) DEFINITION OF LIVESTOCK.—In this section, the term “livestock” includes elk, reindeer, bison, horses, and deer.

(b) AVAILABILITY OF ASSISTANCE.—In such amounts as are provided in advance in appropriation Acts, the Secretary of Agriculture may provide assistance to dairy and other livestock producers to cover economic losses incurred by such producers in connection with the production of livestock.

(c) TYPES OF ASSISTANCE.—The assistance provided to livestock producers may be in the following forms:

(1) Indemnity payments to livestock producers who incur livestock mortality losses.

(2) Livestock feed assistance to livestock producers affected by shortages of feed.

(3) Compensation for sudden increases in production costs.

(4) Such other assistance, and for such other economic losses, as the Secretary considers appropriate.

(d) LIMITATIONS.—The Secretary may not use the funds of the Commodity Credit Corporation to provide assistance under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

SEC. 10105. MARKET LOSS ASSISTANCE FOR APPLE PRODUCERS.

(a) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use \$94,000,000 for fiscal year 2002 to make payments, as soon as practicable after the date of enactment of this Act, to apple producers for the loss of markets during the 2000 crop year.

(b) PAYMENT QUANTITY.—The payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the lesser of—

(1) the quantity of the 2000 crop of apples produced by the producers on the farm; or

(2) 5,000,000 pounds of apples produced on the farm.

(c) LIMITATIONS.—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or income eligibility limitation, with respect to payments made under this section.

(d) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall promulgate such regulations as are necessary to implement this section.

(2) PROCEDURE.—The promulgation of the regulations and administration of this section shall be made without regard to—

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

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relat-

ing to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

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

SEC. 10106. MARKET LOSS ASSISTANCE FOR ONION PRODUCERS.

The Secretary of Agriculture shall use \$10,000,000 of the funds of the Commodity Credit Corporation to make a grant to the State of New York to be used to support onion producers in Orange County, New York, that have suffered losses to onion crops during 1 or more of the 1996 through 2000 crop years.

SEC. 10107. COMMERCIAL FISHERIES FAILURE.

(a) IN GENERAL.—The Secretary of Agriculture, in consultation with the Secretary of Commerce, shall provide emergency disaster assistance for the commercial fishery failure under section 308(b)(1) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)(1)) with respect to Northeast multispecies fisheries.

(b) PROGRAM REQUIREMENTS.—Amounts made available to carry out this section shall be used to support a voluntary fishing capacity reduction program in the Northeast multispecies fishery that—

(1) is certified by the Secretary of Commerce to be consistent with section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)); and

(2) permanently revokes multispecies limited access fishing permits so as to obtain the maximum sustained reduction in fishing capacity at the least cost and in the minimum period of time and to prevent the replacement of fishing capacity removed by the program.

(c) APPLICATION OF REGULATIONS.—The program shall be carried out in accordance with the regulations codified at part 648 of title 50, Code of Federal Regulations, and any corresponding rule issued in accordance with the regulations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(e) TERMINATION OF AUTHORITY.—The authority provided under this section terminates on the date that is 1 year after the date of enactment of this Act.

SEC. 10108. STUDY OF FEASIBILITY OF PRODUCER INDEMNIFICATION FROM GOVERNMENT-CAUSED DISASTERS.

(a) FINDINGS.—Congress finds that the implementation of Federal disaster assistance programs fails to adequately address situations in which disaster conditions are caused primarily by Federal action.

(b) AUTHORITY.—The Secretary of Agriculture shall conduct a study of the feasibility of expanding eligibility for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), and noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333), to

agricultural producers experiencing disaster conditions caused primarily by Federal agency action restricting access to irrigation water, including any lack of access to an adequate supply of water caused by failure by the Secretary of the Interior to fulfill a contract in accordance with the Central Valley Project Improvement Act (106 Stat. 4706).

(c) REPORT.—Not later than 150 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study, including any recommendations.

Subtitle C—Tree Assistance Program

SEC. 10201. [7 U.S.C. 8201] DEFINITIONS.

In this subtitle:

(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.

SEC. 10202. [7 U.S.C. 8202] ELIGIBILITY.

(a) LOSS.—Subject to subsection (b), the Secretary shall provide assistance under section 10203 to eligible orchardists that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary.

(b) LIMITATION.—An eligible orchardist shall qualify for assistance under subsection (a) only if the tree mortality of the eligible orchardist, as a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

SEC. 10203. [7 U.S.C. 8203] ASSISTANCE.

Subject to section 10204, the assistance provided by the Secretary to eligible orchardists for losses described in section 10202 shall consist of—

(1) reimbursement of 75 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

(2) at the option of the Secretary, sufficient seedlings to re-establish a stand.

SEC. 10204. [7 U.S.C. 8204] LIMITATIONS ON ASSISTANCE.

(a) AMOUNT.—The total amount of payments that a person shall be entitled to receive under this subtitle may not exceed \$75,000, or an equivalent value in tree seedlings.

(b) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a person shall be entitled to receive payments under this subtitle may not exceed 500 acres.

(c) REGULATIONS.—The Secretary shall promulgate regulations—

(1) defining the term “person” for the purposes of this subtitle, which shall conform, to the maximum extent practicable, to the regulations defining the term “person” promulgated under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) promulgating such regulations as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 10205. [7 U.S.C. 8205] AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

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Subtitle E—Animal Health Protection

SEC. 10401. [7 U.S.C. 8301 note] SHORT TITLE.

This subtitle may be cited as the “Animal Health Protection Act”.

SEC. 10402. [7 U.S.C. 8301] FINDINGS.

Congress finds that—

(1) the prevention, detection, control, and eradication of diseases and pests of animals are essential to protect—

(A) animal health;

(B) the health and welfare of the people of the United States;

(C) the economic interests of the livestock and related industries of the United States;

(D) the environment of the United States; and

(E) interstate commerce and foreign commerce of the United States in animals and other articles;

(2) animal diseases and pests are primarily transmitted by animals and articles regulated under this subtitle;

(3) the health of animals is affected by the methods by which animals and articles are transported in interstate commerce and foreign commerce;

(4) the Secretary must continue to conduct research on animal diseases and pests that constitute a threat to the livestock of the United States; and

(5)(A) all animals and articles regulated under this subtitle are in or affect interstate commerce or foreign commerce; and

(B) regulation by the Secretary and cooperation by the Secretary with foreign countries, States or other jurisdictions, or persons are necessary—

(i) to prevent and eliminate burdens on interstate commerce and foreign commerce;

(ii) to regulate effectively interstate commerce and foreign commerce; and

(iii) to protect the agriculture, environment, economy, and health and welfare of the people of the United States.

SEC. 10403. [7 U.S.C. 8302] DEFINITIONS.

In this subtitle:

(1) **ANIMAL.**—The term “animal” means any member of the animal kingdom (except a human).

(2) **ARTICLE.**—The term “article” means any pest or disease or any material or tangible object that could harbor a pest or disease.

(3) **DISEASE.**—The term “disease” has the meaning given the term by the Secretary.

(4) **ENTER.**—The term “enter” means to move into the commerce of the United States.

(5) **EXPORT.**—The term “export” means to move from a place within the territorial limits of the United States to a place outside the territorial limits of the United States.

(6) **FACILITY.**—The term “facility” means any structure.

(7) **IMPORT.**—The term “import” means to move from a place outside the territorial limits of the United States to a place within the territorial limits of the United States.

(8) **INDIAN TRIBE.**—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(9) **INTERSTATE COMMERCE.**—The term “interstate commerce” means trade, traffic, or other commerce—

(A) between a place in a State and a place in another State, or between places within the same State but through any place outside that State; or

(B) within the District of Columbia or any territory or possession of the United States.

(10) **LIVESTOCK.**—The term “livestock” means all farm-raised animals.

(11) **MEANS OF CONVEYANCE.**—The term “means of conveyance” means any personal property used for or intended for use for the movement of any other personal property.

(12) **MOVE.**—The term “move” means—

(A) to carry, enter, import, mail, ship, or transport;

(B) to aid, abet, cause, or induce carrying, entering, importing, mailing, shipping, or transporting;

(C) to offer to carry, enter, import, mail, ship, or transport;

(D) to receive in order to carry, enter, import, mail, ship, or transport;

(E) to release into the environment; or

(F) to allow any of the activities described in this paragraph.

(13) **PEST.**—The term “pest” means any of the following that can directly or indirectly injure, cause damage to, or cause disease in livestock:

(A) A protozoan.

(B) A plant.

(C) A bacteria.

(D) A fungus.

(E) A virus or viroid.

(F) An infectious agent or other pathogen.

(G) An arthropod.

(H) A parasite.

(I) A prion.

(J) A vector.

(K) Any organism similar to or allied with any of the organisms described in this paragraph.

(14) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(15) STATE.—The term “State” means any of the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands of the United States, or any territory or possession of the United States.

(16) THIS SUBTITLE.—Except when used in this section, the term “this subtitle” includes any regulation or order issued by the Secretary under the authority of this subtitle.

(17) UNITED STATES.—The term “United States” means all of the States.

(18) VETERINARY COUNTERMEASURE.—The term “veterinary countermeasure” means any biological product (including an animal vaccine or diagnostic), pharmaceutical product (including a therapeutic), non-pharmaceutical product (including a disinfectant), or other product or equipment to prevent, detect, respond to, or mitigate harm to public or animal health resulting from, animal pests or diseases.

SEC. 10404. [7 U.S.C. 8303] RESTRICTION ON IMPORTATION OR ENTRY.

(a) IN GENERAL.—With notice to the Secretary of the Treasury and public notice as soon as practicable, the Secretary may prohibit or restrict—

(1) the importation or entry of any animal, article, or means of conveyance, or use of any means of conveyance or facility, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock;

(2) the further movement of any animal that has strayed into the United States if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock; and

(3) the use of any means of conveyance in connection with the importation or entry of livestock if the Secretary determines that the prohibition or restriction is necessary because the means of conveyance has not been maintained in a clean and sanitary condition or does not have accommodations for the safe and proper movement of livestock.

(b) REGULATIONS.—

(1) RESTRICTIONS ON IMPORT AND ENTRY.—The Secretary may issue such orders and promulgate such regulations as are necessary to carry out subsection (a).

(2) POST IMPORTATION QUARANTINE.—The Secretary may promulgate regulations requiring that any animal imported or entered be raised or handled under post-importation quarantine conditions by or under the supervision of the Secretary

for the purpose of determining whether the animal is or may be affected by any pest or disease of livestock.

(c) DESTRUCTION OR REMOVAL.—

(1) IN GENERAL.—The Secretary may order the destruction or removal from the United States of—

(A) any animal, article, or means of conveyance that has been imported but has not entered the United States if the Secretary determines that destruction or removal from the United States is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock;

(B) any animal or progeny of any animal, article, or means of conveyance that has been imported or entered in violation of this subtitle; or

(C) any animal that has strayed into the United States if the Secretary determines that destruction or removal from the United States is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock.

(2) REQUIREMENTS OF OWNERS.—

(A) ORDERS TO DISINFECT.—The Secretary may require the disinfection of—

(i) a means of conveyance used in connection with the importation of an animal;

(ii) an individual involved in the importation of an animal and personal articles of the individual; and

(iii) any article used in the importation of an animal.

(B) FAILURE TO COMPLY WITH ORDERS.—If an owner fails to comply with an order of the Secretary under this section, the Secretary may—

(i) take remedial action, destroy, or remove from the United States the animal or progeny of any animal, article, or means of conveyance as authorized under paragraph (1); and

(ii) recover from the owner the costs of any care, handling, disposal, or other action incurred by the Secretary in connection with the remedial action, destruction, or removal.

SEC. 10405. [7 U.S.C. 8304] EXPORTATION.

(a) IN GENERAL.—The Secretary may prohibit or restrict—

(1) the exportation of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination from or within the United States of any pest or disease of livestock;

(2) the exportation of any livestock if the Secretary determines that the livestock is unfit to be moved;

(3) the use of any means of conveyance or facility in connection with the exportation of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination from or within the United States of any pest or disease of livestock; or

(4) the use of any means of conveyance in connection with the exportation of livestock if the Secretary determines that the prohibition or restriction is necessary because the means of conveyance has not been maintained in a clean and sanitary condition or does not have accommodations for the safe and proper movement and humane treatment of livestock.

(b) REQUIREMENTS OF OWNERS.—

(1) ORDERS TO DISINFECT.—The Secretary may require the disinfection of—

(A) a means of conveyance used in connection with the exportation of an animal;

(B) an individual involved in the exportation of an animal and personal articles of the individual; and

(C) any article used in the exportation of an animal.

(2) FAILURES TO COMPLY WITH ORDERS.—If an owner fails to comply with an order of the Secretary under this section, the Secretary may—

(A) take remedial action with respect to the animal, article, or means of conveyance referred to in paragraph (1); and

(B) recover from the owner the costs of any care, handling, disposal, or other action incurred by the Secretary in connection with the remedial action.

(c) CERTIFICATION.—The Secretary may certify the classification, quality, quantity, condition, processing, handling, or storage of any animal or article intended for export.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated—

(A) \$1,500,000 for each of fiscal years 2008 through 2018 to carry out section 11010 of the Food, Conservation, and Energy Act of 2008; and

(B) such sums as may be necessary for each of fiscal years 2008 through 2018 to carry out this section.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.

SEC. 10406. [7 U.S.C. 8305] INTERSTATE MOVEMENT.

The Secretary may prohibit or restrict—

(1) the movement in interstate commerce of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of any pest or disease of livestock; and

(2) the use of any means of conveyance or facility in connection with the movement in interstate commerce of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of any pest or disease of livestock.

SEC. 10407. [7 U.S.C. 8306] SEIZURE, QUARANTINE, AND DISPOSAL.

(a) IN GENERAL.—The Secretary may hold, seize, quarantine, treat, destroy, dispose of, or take other remedial action with respect to—

(1) any animal or progeny of any animal, article, or means of conveyance that—

(A) is moving or has been moved in interstate commerce or has been imported and entered; and

(B) the Secretary has reason to believe may carry, may have carried, or may have been affected with or exposed to any pest or disease of livestock at the time of movement or that is otherwise in violation of this subtitle;

(2) any animal or progeny of any animal, article, or means of conveyance that is moving or is being handled, or has moved or has been handled, in interstate commerce in violation of this subtitle;

(3) any animal or progeny of any animal, article, or means of conveyance that has been imported, and is moving or is being handled or has moved or has been handled, in violation of this subtitle; or

(4) any animal or progeny of any animal, article, or means of conveyance that the Secretary finds is not being maintained, or has not been maintained, in accordance with any post-importation quarantine, post-importation condition, post-movement quarantine, or post-movement condition in accordance with this subtitle.

(b) EXTRAORDINARY EMERGENCIES.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary determines that an extraordinary emergency exists because of the presence in the United States of a pest or disease of livestock and that the presence of the pest or disease threatens the livestock of the United States, the Secretary may—

(A) hold, seize, treat, apply other remedial actions to, destroy (including preventative slaughter), or otherwise dispose of, any animal, article, facility, or means of conveyance if the Secretary determines the action is necessary to prevent the dissemination of the pest or disease; and

(B) prohibit or restrict the movement or use within a State, or any portion of a State of any animal or article, means of conveyance, or facility if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the pest or disease.

(2) STATE ACTION.—

(A) IN GENERAL.—The Secretary may take action in a State under this subsection only on finding that measures being taken by the State are inadequate to control or eradicate the pest or disease, after review and consultation with—

(i) the Governor or an appropriate animal health official of the State; or

(ii) in the case of any animal, article, facility, or means of conveyance under the jurisdiction of an Indian tribe, the head of the Indian tribe.

(B) NOTICE.—Subject to subparagraph (C), before any action is taken in a State under subparagraph (A), the Secretary shall—

(i) notify the Governor, an appropriate animal health official of the State, or head of the Indian tribe of the proposed action;

(ii) issue a public announcement of the proposed action; and

(iii) publish in the Federal Register—

(I) the findings of the Secretary;

(II) a description of the proposed action; and

(III) a statement of the reasons for the proposed action.

(C) NOTICE AFTER ACTION.—If it is not practicable to publish in the Federal Register the information required under subparagraph (B)(iii) before taking action under subparagraph (A), the Secretary shall publish the information as soon as practicable, but not later than 10 business days, after commencement of the action.

(c) QUARANTINE, DISPOSAL, OR OTHER REMEDIAL ACTION.—

(1) IN GENERAL.—The Secretary, in writing, may order the owner of any animal, article, facility, or means of conveyance referred to in subsection (a) or (b) to maintain in quarantine, dispose of, or take other remedial action with respect to the animal, article, facility, or means of conveyance, in a manner determined by the Secretary.

(2) FAILURE TO COMPLY WITH ORDERS.—If the owner fails to comply with the order of the Secretary, the Secretary may—

(A) seize, quarantine, dispose of, or take other remedial action with respect to the animal, article, facility, or means of conveyance under subsection (a) or (b); and

(B) recover from the owner the costs of any care, handling, disposal, or other remedial action incurred by the Secretary in connection with the seizure, quarantine, disposal, or other remedial action.

(d) COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary shall compensate the owner of any animal, article, facility, or means of conveyance that the Secretary requires to be destroyed under this section.

(2) AMOUNT.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the compensation shall be based on the fair market value, as determined by the Secretary, of the destroyed animal, article, facility, or means of conveyance.

(B) LIMITATION.—Compensation paid any owner under this subsection shall not exceed the difference between—

(i) the fair market value of the destroyed animal, article, facility, or means of conveyance; and

(ii) any compensation received by the owner from a State or other source for the destroyed animal, article, facility, or means of conveyance.

(C) REVIEWABILITY.—The determination by the Secretary of the amount to be paid under this subsection shall be final and not subject to judicial review or review by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.

(3) EXCEPTIONS.—No payment shall be made by the Secretary under this subsection for—

(A) any animal, article, facility, or means of conveyance that has been moved or handled by the owner in violation of an agreement for the control and eradication of diseases or pests or in violation of this subtitle;

(B) any progeny of any animal or article, which animal or article has been moved or handled by the owner of the animal or article in violation of this subtitle;

(C) any animal, article, or means of conveyance that is refused entry under this subtitle; or

(D) any animal, article, facility, or means of conveyance that becomes or has become affected with or exposed to any pest or disease of livestock because of a violation of an agreement for the control and eradication of diseases or pests or a violation of this subtitle by the owner.

SEC. 10408. [7 U.S.C. 8307] INSPECTIONS, SEIZURES, AND WARRANTS.⁵⁸

(a) **GUIDELINES.**—The activities authorized by this section shall be carried out consistent with guidelines approved by the Attorney General.

(b) **WARRANTLESS INSPECTIONS.**—The Secretary may stop and inspect, without a warrant, any person or means of conveyance moving—

(1) into the United States, to determine whether the person or means of conveyance is carrying any animal or article regulated under this subtitle;

(2) in interstate commerce, on probable cause to believe that the person or means of conveyance is carrying any animal or article regulated under this subtitle; or

(3) in intrastate commerce from any State, or any portion of a State, quarantined under section 10407(b), on probable cause to believe that the person or means of conveyance is carrying any animal or article quarantined under section 10407(b).

(c) **INSPECTIONS WITH WARRANTS.**—

(1) **IN GENERAL.**—The Secretary may enter, with a warrant, any premises in the United States for the purpose of making inspections and seizures under this subtitle.

(2) **APPLICATION AND ISSUANCE OF WARRANTS.**—

(A) **IN GENERAL.**—On proper oath or affirmation showing probable cause to believe that there is on certain prem-

⁵⁸Section 10811 of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 116 Stat. 531; 7 U.S.C. 8307 note) provides as follows:

SEC. 10811. PRECLEARANCE QUARANTINE INSPECTIONS.

(a) **PRECLEARANCE INSPECTIONS REQUIRED.**—The Secretary of Agriculture, acting through the Administrator of the Animal and Plant Health Inspection Service, shall conduct preclearance quarantine inspections of persons, baggage, cargo, and any other articles destined for movement from the State of Hawaii to any of the following—

- (1) The continental United States.
- (2) Guam.
- (3) Puerto Rico.
- (4) The United States Virgin Islands.

(b) **INSPECTION LOCATIONS.**—The preclearance quarantine inspections required by subsection (a) shall be conducted at all direct departure and interline airports in the State of Hawaii.

(c) **LIMITATION.**—The Secretary shall not implement this section unless appropriations for necessary expenses of the Animal and Plant Health Inspection Service for inspection, quarantine, and regulatory activities are increased by an amount not less than \$3,000,000 in an Act making appropriations for fiscal year 2003.

ises any animal, article, facility, or means of conveyance regulated under this subtitle, a United States judge, a judge of a court of record in the United States, or a United States magistrate judge may issue a warrant for the entry on premises within the jurisdiction of the judge or magistrate to make any inspection or seizure under this subtitle.

(B) EXECUTION.—The warrant may be applied for and executed by the Secretary or any United States marshal.

SEC. 10409. [7 U.S.C. 8308] DETECTION, CONTROL, AND ERADICATION OF DISEASES AND PESTS.

(a) IN GENERAL.—The Secretary may carry out operations and measures to detect, control, or eradicate any pest or disease of livestock (including the drawing of blood and diagnostic testing of animals), including animals at a slaughterhouse, stockyard, or other point of concentration.

(b) COMPENSATION.—

(1) IN GENERAL.—The Secretary may pay a claim arising out of the destruction of any animal, article, or means of conveyance consistent with the purposes of this subtitle.

(2) SPECIFIC COOPERATIVE PROGRAMS.—The Secretary shall compensate industry participants and State agencies that cooperate with the Secretary in carrying out operations and measures under subsection (a) for 100 percent of eligible costs relating to cooperative programs involving Federal, State, and industry participants to control diseases of low pathogenicity in accordance with regulations issued by the Secretary.

(3) REVIEWABILITY.—The action of the Secretary in carrying out paragraph (1) shall not be subject to review by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.

SEC. 10409A. [7 U.S.C. 8308a] ANIMAL DISEASE PREVENTION AND MANAGEMENT.

(a) NATIONAL ANIMAL HEALTH LABORATORY NETWORK.—

(1) DEFINITION OF ELIGIBLE LABORATORY.—In this subsection, the term “eligible laboratory” means a diagnostic laboratory that meets specific criteria developed by the Secretary, in consultation with State animal health officials, State veterinary diagnostic laboratories, and veterinary diagnostic laboratories at institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

(2) IN GENERAL.—The Secretary, in consultation with State veterinarians, shall offer to enter into contracts, grants, cooperative agreements, or other legal instruments with eligible laboratories for any of the following purposes:

(A) To enhance the capability of the Secretary to respond in a timely manner to emerging or existing bioterrorist threats to animal health.

(B) To provide the capacity and capability for standardized—

(i) test procedures, reference materials, and equipment;

(ii) laboratory biosafety and biosecurity levels;

- (iii) quality management system requirements;
- (iv) interconnected electronic reporting and transmission of data; and
- (v) evaluation for emergency preparedness.

(C) To coordinate the development, implementation, and enhancement of national veterinary diagnostic laboratory capabilities, with special emphasis on surveillance planning and vulnerability analysis, technology development and validation, training, and outreach.

(3) PRIORITY.—To the extent practicable and to the extent capacity and specialized expertise may be necessary, the Secretary shall give priority to existing Federal facilities, State facilities, and facilities at institutions of higher education.

(b) NATIONAL ANIMAL DISEASE PREPAREDNESS AND RESPONSE PROGRAM.—

(1) PROGRAM REQUIRED.—The Secretary shall establish a program, to be known as the National Animal Disease Preparedness and Response Program (referred to in this section as “the Program”), to address the increasing risk of the introduction and spread within the United States of animal pests and diseases affecting the economic interests of the livestock and related industries of the United States, including the maintenance and expansion of export markets.

(2) PROGRAM ACTIVITIES.—Activities under the Program shall include, to the extent practicable, the following:

- (A) Enhancing animal pest and disease analysis and surveillance.
- (B) Expanding outreach and education.
- (C) Targeting domestic inspection activities at vulnerable points in the safeguarding continuum.
- (D) Enhancing and strengthening threat identification technology.
- (E) Improving biosecurity.
- (F) Enhancing emergency preparedness and response capabilities, including training additional emergency response personnel.

(G) Conducting technology development to enhance electronic sharing of animal health data for risk analysis between State and Federal animal health officials.

(H) Enhancing the development and effectiveness of animal health technologies to treat and prevent animal disease, including—

- (i) veterinary biologics and diagnostics;
- (ii) animal drugs for minor uses and minor species;
- (iii) animal medical devices; and
- (iv) emerging veterinary countermeasures.

(I) Such other activities as determined appropriate by the Secretary, in consultation with eligible entities specified in paragraph (3).

(3) ELIGIBLE ENTITIES.—To carry out the Program, the Secretary shall offer to enter into cooperative agreements or other legal instruments, as authorized under section 10413 (referred to in this section as “agreements”) with eligible entities, to be

selected by the Secretary, which may include any of the following entities, either individually or in combination:

(A) A State department of agriculture.

(B) The office of the chief animal health official of a State.

(C) An entity eligible to receive funds under a capacity and infrastructure program (as defined in section 251(f)(1)(C) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971(f)(1)(C))).

(D) A college of veterinary medicine, including a veterinary emergency team at such college.

(E) A State or national livestock producer organization with direct and significant economic interest in livestock production.

(F) A State emergency agency.

(G) A State, national, allied, or regional veterinary organization or specialty board recognized by the American Veterinary Medical Association.

(H) An Indian Tribe.

(I) A Federal agency.

(4) SPECIAL FUNDING CONSIDERATIONS.—In entering into agreements under this subsection, the Secretary shall give priority to applications submitted by—

(A) a State department of agriculture or an office of the chief animal health official of a State; or

(B) an eligible entity that will carry out program activities in a State or region in which—

(i) an animal pest or disease is a Federal concern;

or

(ii) the Secretary determines a potential exists for the spread of an animal pest or disease after taking into consideration—

(I) the agricultural industries in the State or region;

(II) factors contributing to animal pest or disease in the State or region, such as the climate, natural resources, and geography of, and native and exotic wildlife species and other disease vectors in, the State or region; and

(III) the movement of animals in the State or region.

(5) CONSULTATION.—For purposes of setting priorities under this subsection, the Secretary shall consult with eligible entities specified in paragraph (3). The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultation carried out under this paragraph.

(6) APPLICATION.—

(A) IN GENERAL.—An eligible entity specified in paragraph (3) seeking to enter into an agreement under the Program shall submit to the Secretary an application containing such information as the Secretary may require.

(B) NOTIFICATION.—The Secretary shall notify each applicant of—

(i) the requirements to be imposed on the eligible entity that is the recipient of funds under the Program for auditing of, and reporting on, the use of such funds; and

(ii) the criteria to be used to ensure activities supported using such funds are based on sound scientific data or thorough risk assessments.

(C) NON-FEDERAL CONTRIBUTIONS.—When deciding whether to enter into an agreement under the Program with an eligible entity described in paragraph (3), the Secretary—

(i) may take into consideration an eligible entity's ability to contribute non-Federal funds to carry out such an agreement; and

(ii) shall not require such an eligible entity to make such a contribution as a condition to enter into an agreement.

(7) USE OF FUNDS.—

(A) USE CONSISTENT WITH TERMS OF COOPERATIVE AGREEMENT.—The recipient of funds under the Program shall use the funds for the purposes and in the manner provided in the agreement under which the funds are provided.

(B) SUB-AGREEMENT.—Nothing in this section prevents an eligible entity from using funds received under the Program to enter into sub-agreements with another eligible entity or with a political subdivision of a State that has legal responsibilities relating to animal disease prevention, surveillance, or rapid response.

(8) REPORTING REQUIREMENT.—Not later than 90 days after the date of completion of an activity conducted using funds provided under the Program, the recipient of such funds shall submit to the Secretary a report that describes the purposes and results of the activities.

(c) NATIONAL ANIMAL VACCINE BANK.—

(1) ESTABLISHMENT.—The Secretary shall establish a national animal vaccine and veterinary countermeasures bank (to be known as the National Animal Vaccine and Veterinary Countermeasures Bank and referred to in this subsection as the “Vaccine Bank”) to benefit the domestic interests of the United States.

(2) ELEMENTS OF VACCINE BANK.—Through the Vaccine Bank, the Secretary shall—

(A) maintain sufficient quantities of veterinary countermeasures to appropriately and rapidly respond to the most damaging animal diseases affecting or with potential to affect human health or the economy of the United States; and

(B) leverage, when appropriate, the mechanisms and infrastructure that have been developed for the management, storage, and distribution of the National Veterinary Stockpile.

(3) PRIORITY FOR RESPONSE TO FOOT AND MOUTH DISEASE.—The Secretary shall prioritize the acquisition and main-

tenance of sufficient quantities of foot and mouth disease vaccine and accompanying diagnostic products for the Vaccine Bank. As part of such prioritization, the Secretary may offer to enter into one or more contracts with one or more entities that are capable of producing foot and mouth disease vaccine and that have surge production capacity of the vaccine.

(d) FUNDING.—

(1) MANDATORY FUNDING.—

(A) FISCAL YEARS 2019 THROUGH 2022.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$120,000,000 for the period of fiscal years 2019 through 2022, of which not less than \$5,000,000 shall be made available for each of those fiscal years to carry out subsection (b).

(B) SUBSEQUENT FISCAL YEARS.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$30,000,000 for fiscal year 2023 and each fiscal year thereafter, of which not less than \$18,000,000 shall be made available for each of those fiscal years to carry out subsection (b).

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) NATIONAL ANIMAL HEALTH LABORATORY NETWORK.—In addition to the funds made available under paragraph (1), there is authorized to be appropriated \$30,000,000 for each of fiscal years 2019 through 2023 to carry out subsection (a).

(B) NATIONAL ANIMAL DISEASE PREPAREDNESS AND RESPONSE PROGRAM; NATIONAL ANIMAL VACCINE AND VETERINARY COUNTERMEASURES BANK.—In addition to the funds made available under paragraph (1), there is authorized to be appropriated such sums as are necessary for each of fiscal years 2019 through 2023 to carry out subsections (b) and (c).

(C) ADDITIONALITY.—The funds authorized for appropriation under this paragraph are in addition to any funds authorized or otherwise made available under this section or section 10417.

(3) ADMINISTRATIVE COSTS.—

(A) SECRETARY.—Of the funds made available under this section or section 10417 to carry out the National Animal Health Laboratory Network under subsection (a) and the National Animal Disease Preparedness and Response Program under subsection (b), not more than 4 percent may be retained by the Secretary to pay administrative costs incurred by the Secretary.

(B) ELIGIBLE ENTITIES.—Of the funds made available under this section or section 10417 to carry out the National Animal Disease Preparedness and Response Program under subsection (b), not more than 10 percent may be retained by an eligible entity that receives funds under any agreement entered into under such subsection, including any sub-agreement under paragraph (7)(B) of such subsection to pay administrative costs incurred by the eligible entity to carry out activities under the Program.

(4) DURATION OF AVAILABILITY.—Funds made available under this subsection, including any proceeds credited under paragraph (5), shall remain available until expended.

(5) PROCEEDS FROM VETERINARY COUNTERMEASURES SALES.—Any proceeds of a sale of veterinary countermeasures from the Vaccine Bank shall be—

(A) deposited into the Treasury of the United States; and

(B) credited to the account for the operation of the Vaccine Bank to be made available for expenditure without further appropriation.

(6) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—Funds made available under the National Animal Health Laboratory Network, the National Animal Disease Preparedness and Response Program, and the Vaccine Bank shall not be used for the construction of a new building or facility or the acquisition or expansion of an existing building or facility, including site grading and improvement and architect fees.

(e) AVAILABILITY AND PURPOSE OF FUNDING.—

(1) IN GENERAL.—Using the funds made available under subsection (d), the Secretary of Agriculture shall offer to enter into contracts, grants, cooperative agreements, or other legal instruments under subsections (a) through (c) during each of the fiscal years 2019 through 2023.

(2) EFFECT.—Nothing in paragraph (1) shall be construed to terminate a contract, grant, cooperative agreement, or other legal instrument entered into during the period specified in such paragraph.

SEC. 10410. [7 U.S.C. 8309] VETERINARY ACCREDITATION PROGRAM.

(a) IN GENERAL.—The Secretary may establish a veterinary accreditation program that is consistent with this subtitle, including the establishment of standards of conduct for accredited veterinarians.

(b) CONSULTATION.—The Secretary shall consult with State animal health officials and veterinary professionals regarding the establishment of the veterinary accreditation program.

(c) SUSPENSION OR REVOCATION OF ACCREDITATION.—

(1) IN GENERAL.—The Secretary may, after notice and opportunity for a hearing on the record, suspend or revoke the accreditation of any veterinarian accredited under this title who violates this subtitle.

(2) FINAL ORDER.—The order of the Secretary suspending or revoking accreditation shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(3) SUMMARY SUSPENSION.—

(A) IN GENERAL.—The Secretary may summarily suspend the accreditation of a veterinarian whom the Secretary has reason to believe knowingly violated this subtitle.

(B) HEARINGS.—The Secretary shall provide the veterinarian with a subsequent notice and an opportunity for a prompt post-suspension hearing on the record.

(d) APPLICATION OF PENALTY PROVISIONS.—The criminal and civil penalties described in section 10414 shall not apply to a violation of this section that is not a violation of any other provision of this subtitle.

SEC. 10411. [7 U.S.C. 8310] COOPERATION.

(a) IN GENERAL.—To carry out this subtitle, the Secretary may cooperate with other Federal agencies, States or political subdivisions of States, national governments of foreign countries, local governments of foreign countries, domestic or international organizations, domestic or international associations, Indian tribes, and other persons.

(b) RESPONSIBILITY.—The person or other entity cooperating with the Secretary shall be responsible for the authority necessary to carry out operations or measures—

(1) on all land and property within a foreign country or State, or under the jurisdiction of an Indian tribe, other than on land and property owned or controlled by the United States; and

(2) using other facilities and means, as determined by the Secretary.

(c) SCREWORMS.—

(1) IN GENERAL.—The Secretary may, independently or in cooperation with national governments of foreign countries or international organizations or associations, produce and sell sterile screwworms to any national government of a foreign country or international organization or association, if the Secretary determines that the livestock industry and related industries of the United States will not be adversely affected by the production and sale.

(2) PROCEEDS.—

(A) INDEPENDENT PRODUCTION AND SALE.—If the Secretary independently produces and sells sterile screwworms under paragraph (1), the proceeds of the sale shall be—

(i) deposited into the Treasury of the United States; and

(ii) credited to the account from which the operating expenses of the facility producing the sterile screwworms have been paid.

(B) COOPERATIVE PRODUCTION AND SALE.—

(i) IN GENERAL.—If the Secretary cooperates to produce and sell sterile screwworms under paragraph (1), the proceeds of the sale shall be divided between the United States and the cooperating national government or international organization or association in a manner determined by the Secretary.

(ii) ACCOUNT.—The United States portion of the proceeds shall be—

(I) deposited into the Treasury of the United States; and

(II) credited to the account from which the operating expenses of the facility producing the sterile screwworms have been paid.

(d) COOPERATION IN PROGRAM ADMINISTRATION.—The Secretary may cooperate with State authorities, Indian tribe authorities, or other persons in the administration of regulations for the improvement of livestock and livestock products.

(e) CONSULTATION AND COORDINATION WITH OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—The Secretary shall consult and coordinate with the head of a Federal agency with respect to any activity that is under the jurisdiction of the Federal agency.

(2) LEAD AGENCY.—Subject to the consultation and coordination requirement in paragraph (1), the Department of Agriculture shall be the lead agency with respect to issues related to pests and diseases of livestock.

SEC. 10412. [7 U.S.C. 8311] REIMBURSABLE AGREEMENTS.

(a) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into reimbursable fee agreements with persons for preclearance of animals or articles at locations outside the United States for movement into the United States.

(b) FUNDS COLLECTED FOR PRECLEARANCE.—Funds collected for preclearance activities—

(1) may be collected in advance of the provision of such activities;

(2) shall be credited as offsetting collections to the currently applicable appropriation, account, or fund of U.S. Customs and Border Protection;

(3) shall remain available until expended;

(4) shall be available for the purposes for which such appropriation, account, or fund is authorized to be used; and

(5) may be collected and shall be available only to the extent provided in appropriations Acts.

(c) PAYMENT OF EMPLOYEES.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary may pay an officer or employee of the Department of Agriculture performing services under this subtitle relating to imports into and exports from the United States for all overtime, night, or holiday work performed by the officer or employee at a rate of pay determined by the Secretary.

(2) REIMBURSEMENT.—

(A) IN GENERAL.—The Secretary may require a person for whom the services are performed to reimburse the Secretary for any expenses paid by the Secretary for the services under this subsection.

(B) USE OF FUNDS.—All funds collected under this subsection shall—

(i) be credited to the account that incurs the costs; and

(ii) remain available until expended, without fiscal year limitation.

(d) LATE PAYMENT PENALTIES.—

(1) COLLECTION.—On failure by a person to reimburse the Secretary in accordance with this section, the Secretary may assess a late payment penalty against the person, including in—

terest on overdue funds, as required by section 3717 of title 31, United States Code.

(2) USE OF FUNDS.—Any late payment penalty and any accrued interest shall—

(A) be credited to the account that incurs the costs; and

(B) remain available until expended, without fiscal year limitation.

SEC. 10413. [7 U.S.C. 8312] ADMINISTRATION AND CLAIMS.

(a) ADMINISTRATION.—To carry out this subtitle, the Secretary may—

(1) acquire and maintain real or personal property;

(2) employ a person;

(3) make a grant; and

(4) notwithstanding chapter 63 of title 31, United States Code, enter into a contract, cooperative agreement, memorandum of understanding, or other agreement.

(b) TORT CLAIMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may pay a tort claim, in the manner authorized by the first paragraph of section 2672 of title 28, United States Code, if the claim arises outside the United States in connection with an activity authorized under this subtitle.

(2) REQUIREMENTS.—A claim may not be allowed under this subsection unless the claim is presented in writing to the Secretary not later than 2 years after the date on which the claim arises.

SEC. 10414. [7 U.S.C. 8313] PENALTIES.

(a) CRIMINAL PENALTIES.—

(1) OFFENSES.—

(A) IN GENERAL.—A person that knowingly violates this subtitle, or knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in this subtitle shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(B) DISTRIBUTION OR SALE.—A person that knowingly imports, enters, exports, or moves any animal or article, for distribution or sale, in violation of this subtitle, shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

(2) MULTIPLE VIOLATIONS.—On the second and any subsequent conviction of a person of a violation of this subtitle under paragraph (1), the person shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Except as provided in section 10410(d), any person that violates this subtitle, or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided under this subtitle may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of—

(A)(i) \$50,000 in the case of any individual, except that the civil penalty may not exceed \$1,000 in the case of an initial violation of this subtitle by an individual moving regulated articles not for monetary gain;

(ii) \$250,000 in the case of any other person for each violation; and

(iii) for all violations adjudicated in a single proceeding—

(I) \$500,000 if the violations do not include a willful violation; or

(II) \$1,000,000 if the violations include 1 or more willful violations.⁵⁹

(B) twice the gross gain or gross loss for any violation or forgery, counterfeiting, or unauthorized use, alteration, defacing or destruction of a certificate, permit, or other document provided under this subtitle that results in the person's deriving pecuniary gain or causing pecuniary loss to another person.

(2) FACTORS IN DETERMINING CIVIL PENALTY.—In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstance, extent, and gravity of the violation or violations and the Secretary may consider, with respect to the violator—

(A) the ability to pay;

(B) the effect on ability to continue to do business;

(C) any history of prior violations;

(D) the degree of culpability; and

(E) such other factors as the Secretary considers to be appropriate.

(3) SETTLEMENT OF CIVIL PENALTIES.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that may be assessed under this subsection.

(4) FINALITY OF ORDERS.—

(A) FINAL ORDER.—The order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(B) REVIEW.—The validity of the order of the Secretary may not be reviewed in an action to collect the civil penalty.

(C) INTEREST.—Any civil penalty not paid in full when due under an order assessing the civil penalty shall thereafter accrue interest until paid at the rate of interest applicable to civil judgments of the courts of the United States.

(c) LIABILITY FOR ACTS OF AGENTS.—In the construction and enforcement of this subtitle, the act, omission, or failure of any officer, agent, or person acting for or employed by any other person within the scope of the employment or office of the officer, agent, or person, shall be deemed also to be the act, omission, or failure of the other person.

(d) GUIDELINES FOR CIVIL PENALTIES.—Subject to the approval of the Attorney General, the Secretary shall establish guidelines to

⁵⁹So in law. Probably meant “; and”.

determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of this subtitle.

SEC. 10415. [7 U.S.C. 8314] ENFORCEMENT.

(a) **COLLECTION OF INFORMATION.—**

(1) **IN GENERAL.—**The Secretary may gather and compile information and conduct any inspection or investigation that the Secretary considers to be necessary for the administration or enforcement of this subtitle.

(2) **SUBPOENAS.—**

(A) **IN GENERAL.—**The Secretary shall have the power to subpoena the attendance and testimony of any witness, the production of all evidence (including books, papers, documents, electronically stored information, and other tangible things that constitute or contain evidence), or to require the person to whom the subpoena is directed to permit the inspection of premises relating to the administration or enforcement of this title or any matter under investigation in connection with this title.

(B) **LOCATION OF PRODUCTION.—**The attendance of any witness and production of evidence relevant to the inquiry may be required from any place in the United States.

(C) **ENFORCEMENT.—**

(i) **IN GENERAL.—**In case of disobedience to a subpoena by any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States within the jurisdiction in which the investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, to require the attendance and testimony of any witness, the production of evidence, or the inspection of premises.

(ii) **NONCOMPLIANCE.—**In case of a refusal to obey a subpoena issued to any person, a court may order the person to appear before the Secretary and give evidence concerning the matter in question, produce evidence, or permit the inspection of premises.

(iii) **CONTEMPT.—**Any failure to obey the order of the court may be punished by the court as contempt of the court.

(D) **COMPENSATION.—**

(i) **WITNESSES.—**A witness summoned by the Secretary under this subtitle shall be paid the same fees and mileage that are paid to a witness in a court of the United States.

(ii) **DEPOSITIONS.—**A witness whose deposition is taken, and the person taking the deposition, shall be entitled to the same fees that are paid for similar services in a court of the United States.

(E) **PROCEDURES.—**

(i) **PUBLICATION.—**The Secretary shall publish procedures for the issuance of subpoenas under this section.

(ii) REVIEW.—The procedures shall include a requirement that subpoenas be reviewed for legal sufficiency and, to be effective, be signed by the Secretary.

(iii) DELEGATION.—If the authority to sign a subpoena is delegated to an agency other than the Office of Administrative Law Judges, the agency receiving the delegation shall seek review of the subpoena for legal sufficiency outside that agency.

(b) AUTHORITY OF ATTORNEY GENERAL.—The Attorney General may—

(1) prosecute, in the name of the United States, all criminal violations of this subtitle that are referred to the Attorney General by the Secretary or are brought to the notice of the Attorney General by any person;

(2) bring an action to enjoin the violation of or to compel compliance with this subtitle, or to enjoin any interference by any person with the Secretary in carrying out this subtitle, in any case in which the Secretary has reason to believe that the person has violated, or is about to violate this subtitle or has interfered, or is about to interfere, with the actions of the Secretary; or

(3) bring an action for the recovery of any unpaid civil penalty, funds under a reimbursable agreement, late payment penalty, or interest assessed under this subtitle.

(c) COURT JURISDICTION.—

(1) IN GENERAL.—The United States district courts, the District Court of Guam, the District Court of the Northern Mariana Islands, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions are vested with jurisdiction in all cases arising under this subtitle.

(2) VENUE.—Any action arising under this subtitle may be brought, and process may be served, in the judicial district where a violation or interference occurred or is about to occur, or where the person charged with the violation, interference, impending violation, impending interference, or failure to pay resides, is found, transacts business, is licensed to do business, or is incorporated.

(3) EXCEPTION.—Paragraphs (1) and (2) do not apply to sections 10410(c) and 10414(b).

SEC. 10416. [7 U.S.C. 8315] REGULATIONS AND ORDERS.

The Secretary may promulgate such regulations, and issue such orders, as the Secretary determines necessary to carry out this subtitle.

SEC. 10417. [7 U.S.C. 8316] AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

(b) TRANSFER OF FUNDS.—

(1) IN GENERAL.—In connection with an emergency under which a pest or disease of livestock threatens any segment of agricultural production in the United States, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture

such funds as the Secretary determines are necessary for the arrest, control, eradication, or prevention of the spread of the pest or disease of livestock and for related expenses.

(2) AVAILABILITY.—Any funds transferred under this subsection shall remain available until expended, without fiscal year limitation.

(3) REVIEWABILITY.—The action of any officer, employee, or agent of the Secretary in carrying out this section (including determining the amount of and making any payment authorized to be made under this subtitle) shall not be subject to review by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.

(c) USE OF FUNDS.—In carrying out this subtitle, the Secretary may use funds made available to carry out this subtitle for—

(1) the employment of civilian nationals in foreign countries; and

(2) the construction and operation of research laboratories, quarantine stations, and other buildings and facilities for special purposes.

SEC. 10418. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—[Omitted—Amendments]

(b) CONFORMING AMENDMENTS.—[Omitted—Amendments]

(c) [7 U.S.C. 8317] EFFECT ON REGULATIONS.—A regulation issued under a provision of law repealed by subsection (a) shall remain in effect until the Secretary issues a regulation under section 10404(b) or 10416 that supersedes the earlier regulation.

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Subtitle G—Specialty Crops

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SEC. 10603. [7 U.S.C. 612c–4] PURCHASE OF SPECIALTY CROPS.

(a) GENERAL PURCHASE AUTHORITY.—Of the funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), for fiscal year 2002 and each subsequent fiscal year, the Secretary of Agriculture shall use not less than \$200,000,000 each fiscal year to purchase fruits, vegetables, and other specialty food crops.

(b) PURCHASE OF FRESH FRUITS AND VEGETABLES FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITUTIONS.—The Secretary of Agriculture shall purchase fresh fruits and vegetables for distribution to schools and service institutions in accordance with section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) using, of the amount specified in subsection (a), not less than \$50,000,000 for each of fiscal years 2008 through 2023.

(c) DEFINITIONS.—In this section, the terms “fruits”, “vegetables”, and “other specialty food crops” shall have the meaning given the terms by the Secretary of Agriculture.

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SEC. 10606. [7 U.S.C. 6523] NATIONAL ORGANIC CERTIFICATION COST-SHARE PROGRAM.

(a) **IN GENERAL.**—The Secretary of Agriculture shall establish a national organic certification cost-share program to assist producers and handlers of agricultural products in obtaining certification under the national organic production program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(b) **FEDERAL SHARE.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary shall pay under this section not more than 75 percent of the costs incurred by a producer or handler in obtaining certification under the national organic production program, as certified to and approved by the Secretary.

(2) **MAXIMUM AMOUNT.**—The maximum amount of a payment made to a producer or handler under this section shall be \$750.

(c) **REPORTING.**—Not later than March 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the requests by, disbursements to, and expenditures for each State under the program during the current and previous fiscal year, including the number of producers and handlers served by the program in the previous fiscal year.

(d) **MANDATORY FUNDING.**—

(1) **IN GENERAL.**—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

(A) \$2,000,000 for each of fiscal years 2019 and 2020;

(B) \$4,000,000 for fiscal year 2021; and

(C) \$8,000,000 for each of fiscal years 2022 and 2023.

(2) **AVAILABILITY.**—Amounts made available under paragraph (1) shall remain available until expended.

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Subtitle H—Administration

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SEC. 10703. [7 U.S.C. 2219a] OVERTIME AND HOLIDAY PAY.

(a) **IN GENERAL.**—The Secretary of Agriculture may—

(1) pay employees of the Department of Agriculture employed in an establishment subject to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) for all overtime and holiday work performed at the establishment at rates determined by the Secretary, subject to applicable law relating to minimum wages and maximum hours; and

(2) accept from the establishment reimbursement for any sums paid by the Secretary for the overtime and holiday work, at rates determined under paragraph (1).

(b) **AVAILABILITY.**—Sums received by the Secretary under this section shall remain available until expended without further ap-

propriation and without fiscal year limitation, to carry out subsection (a).

(c) CONFORMING AMENDMENTS.—**[Omitted]**