Secretary shall transfer for use to carry out the fresh fruit and vegetable program under section 19 of the Richard B. Russell National School Lunch Act the amounts specified in subsection (i) of that section.

(d) WHOLE GRAIN PRODUCTS.—Of amounts made available to carry out section 32 under subsection (b)(2)(A), the Secretary shall use to carry out section 4305 $4,000,000 for fiscal year 2009.

(e) MAINTENANCE OF FUNDING.—The funding provided under subsections (c) and (d) shall supplement (and not supplant) other Federal funding (including section 32 funding) for programs carried out under—

(1) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), except for section 19 of that Act;

(2) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.); and

(3) section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036).

SEC. 14223. TECHNICAL CORRECTION.

Section 923(1)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2206a(1)(B)) is amended by striking "as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))" and inserting "as defined in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5))".

TITLE XV—TRADE AND TAX PROVISIONS

SEC. 15001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Heartland, Habitat, Harvest, and Horticulture Act of 2008".

(b) AMENDMENTS TO 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Supplemental Agricultural Disaster Assistance From the Agricultural Disaster Relief Trust Fund

SEC. 15101. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.

(a) IN GENERAL.—The Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by adding at the end the following:

"TITLE IX—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE

"SEC. 901. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.

"(a) DEFINITIONS.—In this section:

"(1) ACTUAL PRODUCTION HISTORY YIELD.—The term 'actual production history yield' means the weighted average of the actual production history for each insurable commodity or noninsurable commodity, as calculated under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or the noninsured crop disaster assistance program, respectively.

"(2) ADJUSTED ACTUAL PRODUCTION HISTORY YIELD.—The term 'adjusted actual production history yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of actual production history yields for an insurable commodity that are established other than pursuant to section 508(g)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(4)(B)), the actual production history for the eligible producer without regard to any yields established under that section;

"(B) in the case of an eligible producer on a farm that has less than 4 years of actual production history yields for an insurable commodity, of which 1 or more were established pursuant to section 508(g)(4)(B) of that Act, the actual production history for the eligible producer as calculated without including the lowest of the yields established pursuant to section 508(g)(4)(B) of that Act; and

"(C) in all other cases, the actual production history of the eligible producer on a farm.

"(3) ADJUSTED NONINSURED CROP DISASTER ASSISTANCE PROGRAM YIELD.—The term 'adjusted noninsured crop disaster assistance program yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield without regard to any replacement yields;

"(B) in the case of an eligible producer on a farm that less than 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield as calculated without including the lowest of the replacement yields; and

"(C) in all other cases, the production history of the eligible producer on the farm under the noninsured crop disaster assistance program.

"(4) COUNTER-CYCLICAL PROGRAM PAYMENT YIELD.—The term 'counter-cyclical program payment yield' means the weighted average payment yield established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912), section 1102 of the Food, Conservation, and Energy Act of 2008, or a successor section.

"(5) DISASTER COUNTY.—

"(A) IN GENERAL.—The term 'disaster county' means a county included in the geographic area covered by a qualifying natural disaster declaration.

"(B) INCLUSION.—The term 'disaster county' includes—

"(i) a county contiguous to a county described in subparagraph (A); and

"(ii) any farm in which, during a calendar year, the total loss of production of the farm relating to

weather is greater than 50 percent of the normal production of the farm, as determined by the Secretary.

"(6) ELIGIBLE PRODUCER ON A FARM.—

"(A) IN GENERAL.—The term 'eligible producer on a farm' means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.

"(B) DESCRIPTION.—An individual or entity referred to in subparagraph (A) is—

"(i) a citizen of the United States;

"(ii) a resident alien;

"(iii) a partnership of citizens of the United States; or

"(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

"(7) FARM.—

"(A) IN GENERAL.—The term 'farm' means, in relation to an eligible producer on a farm, the sum of all crop acreage in all counties that is planted or intended to be planted for harvest by the eligible producer.

"(B) AQUACULTURE.—In the case of aquaculture, the term 'farm' means, in relation to an eligible producer on a farm, all fish being produced in all counties that are intended to be harvested for sale by the eligible producer.

"(C) HONEY.—In the case of honey, the term 'farm' means, in relation to an eligible producer on a farm, all bees and beehives in all counties that are intended to be harvested for a honey crop by the eligible producer.

"(8) FARM-RAISED FISH.—The term 'farm-raised fish' means any aquatic species that is propagated and reared in a controlled environment.

"(9) INSURABLE COMMODITY.—The term 'insurable commodity' means an agricultural commodity (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(10) LIVESTOCK.—The term 'livestock' includes—

"(A) cattle (including dairy cattle);

"(B) bison;

"(C) poultry;

"(D) sheep;

"(E) swine;

"(F) horses; and

"(G) other livestock, as determined by the Secretary.

"(11) NONINSURABLE COMMODITY.—The term 'noninsurable commodity' means a crop for which the eligible producers on a farm are eligible to obtain assistance under the noninsured crop assistance program.

"(12) NONINSURED CROP ASSISTANCE PROGRAM.—The term 'noninsured crop assistance program' means the program carried out under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(13) QUALIFYING NATURAL DISASTER DECLARATION.—The term 'qualifying natural disaster declaration' means a natural disaster declared by the Secretary for production losses under

section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(15) 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)).

"(16) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico; and

"(D) any other territory or possession of the United States.

"(17) TRUST FUND.—The term 'Trust Fund' means the Agricultural Disaster Relief Trust Fund established under section 902.

"(18) UNITED STATES.—The term 'United States' when used in a geographical sense, means all of the States.

"(b) SUPPLEMENTAL REVENUE ASSISTANCE PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall use such sums as are necessary from the Trust Fund to make crop disaster assistance payments to eligible producers on farms in disaster counties that have incurred crop production losses or crop quality losses, or both, during the crop year.

"(2) AMOUNT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide crop disaster assistance payments under this section to an eligible producer on a farm in an amount equal to 60 percent of the difference between—

"(i) the disaster assistance program guarantee, as described in paragraph (3); and

"(ii) the total farm revenue for a farm, as described in paragraph (4).

"(B) LIMITATION.—The disaster assistance program guarantee for a crop used to calculate the payments for a farm under subparagraph (A)(i) may not be greater than 90 percent of the sum of the expected revenue, as described in paragraph (5) for each of the crops on a farm, as determined by the Secretary.

"(3) SUPPLEMENTAL REVENUE ASSISTANCE PROGRAM GUARANTEE.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the supplemental assistance program guarantee shall be the sum obtained by adding—

"(i) for each insurable commodity on the farm, 115 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to the price election for the commodity elected by the eligible producer;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity;

"(III) the payment yield for the commodity that is equal to the percentage of the crop insurance yield elected by the producer of the higher of—

"(aa) the adjusted actual production history yield; or

"(bb) the counter-cyclical program payment yield for each crop; and

"(ii) for each noninsurable commodity on a farm, 120 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to 100 percent of the noninsured crop assistance program established price for the commodity;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity; and

"(III) the payment yield for the commodity that is equal to the higher of—

"(aa) the adjusted noninsured crop assistance program yield guarantee; or

"(bb) the counter-cyclical program payment yield for each crop.

"(B) ADJUSTMENT INSURANCE GUARANTEE.—Notwithstanding subparagraph (A), in the case of an insurable commodity for which a plan of insurance provides for an adjustment in the guarantee, such as in the case of prevented planting, the adjusted insurance guarantee shall be the basis for determining the disaster assistance program guarantee for the insurable commodity.

"(C) ADJUSTED ASSISTANCE LEVEL.—Notwithstanding subparagraph (A), in the case of a noninsurable commodity for which the noninsured crop assistance program provides for an adjustment in the level of assistance, such as in the case of unharvested crops, the adjusted assistance level shall be the basis for determining the disaster assistance program guarantee for the noninsurable commodity.

"(D) EQUITABLE TREATMENT FOR NON-YIELD BASED POLICIES.—The Secretary shall establish equitable treatment for non-yield based policies and plans of insurance, such as the Adjusted Gross Revenue Lite insurance program.

"(4) FARM REVENUE.—

"(A) IN GENERAL.—For purposes of this subsection, the total farm revenue for a farm, shall equal the sum obtained by adding—

"(i) the estimated actual value for each crop produced on a farm by using the product obtained by multiplying—

"(I) the actual crop acreage harvested by an eligible producer on a farm;

"(II) the estimated actual yield of the crop production; and

"(III) subject to subparagraphs (B) and (C), to the extent practicable, the national average market price received for the marketing year, as determined by the Secretary;

"(ii) 15 percent of amount of any direct payments made to the producer under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 or successor sections;

"(iii) the total amount of any counter-cyclical payments made to the producer under sections 1104 and 1304 of the Food, Conservation, and Energy Act of 2008 or successor sections or of any average crop revenue election payments made to the producer under section 1105 of that Act;

"(iv) the total amount of any loan deficiency payments, marketing loan gains, and marketing certificate gains made to the producer under subtitles B and C of the Food, Conservation, and Energy Act of 2008 or successor subtitles;

"(v) the amount of payments for prevented planting on a farm;

"(vi) the amount of crop insurance indemnities received by an eligible producer on a farm for each crop on a farm;

"(vii) the amount of payments an eligible producer on a farm received under the noninsured crop assistance program for each crop on a farm; and

"(viii) the value of any other natural disaster assistance payments provided by the Federal Government to an eligible producer on a farm for each crop on a farm for the same loss for which the eligible producer is seeking assistance.

"(B) ADJUSTMENT.—The Secretary shall adjust the average market price received by the eligible producer on a farm—

"(i) to reflect the average quality discounts applied to the local or regional market price of a crop or mechanically harvested forage due to a reduction in the intrinsic characteristics of the production resulting from adverse weather, as determined annually by the State office of the Farm Service Agency; and

"(ii) to account for a crop the value of which is reduced due to excess moisture resulting from a disaster-related condition.

"(C) MAXIMUM AMOUNT FOR CERTAIN CROPS.—With respect to a crop for which an eligible producer on a farm receives assistance under the noninsured crop assistance program, the national average market price received during the marketing year shall be an amount not more than 100 percent of the price of the crop established under the noninsured crop assistance program.

"(5) EXPECTED REVENUE.—The expected revenue for each crop on a farm shall equal the sum obtained by adding—

"(A) the product obtained by multiplying—

"(i) the greatest of—

"(I) the adjusted actual production history yield of the eligible producer on a farm; and

"(II) the counter-cyclical program payment yield;

"(ii) the acreage planted or prevented from being planted for each crop; and

"(iii) 100 percent of the insurance price guarantee; and

"(B) the product obtained by multiplying—

"(i) 100 percent of the adjusted noninsured crop assistance program yield; and

"(ii) 100 percent of the noninsured crop assistance program price for each of the crops on a farm.

"(c) LIVESTOCK INDEMNITY PAYMENTS.—

"(1) PAYMENTS.—The Secretary shall use such sums as are necessary from the Trust Fund to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality due to adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

"(2) PAYMENT RATES.—Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

"(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) COVERED LIVESTOCK.—

"(i) IN GENERAL.—The term 'covered livestock' means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

"(I) owned;

"(II) leased;

"(III) purchased;

"(IV) entered into a contract to purchase;

"(V) is a contract grower; or

"(VI) sold or otherwise disposed of due to qualifying drought conditions during—

"(aa) the current production year; or

"(bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

"(ii) EXCLUSION.—The term 'covered livestock' does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

"(B) DROUGHT MONITOR.—The term 'drought monitor' means a system for classifying drought severity according to a range of abnormally dry to exceptional drought, as defined by the Secretary.

"(C) ELIGIBLE LIVESTOCK PRODUCER.—

"(i) IN GENERAL.—The term 'eligible livestock producer' means an eligible producer on a farm that—

"(I) is an owner, cash or share lessee, or contract grower of covered livestock that provides the pastureland or grazing land, including cash-leased pastureland or grazing land, for the livestock;

"(II) provides the pastureland or grazing land for covered livestock, including cash-leased pastureland or grazing land that is physically located in a county affected by drought;

"(III) certifies grazing loss; and

"(IV) meets all other eligibility requirements established under this subsection.

"(ii) EXCLUSION.—The term 'eligible livestock producer' does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases pastureland or grazing land owned by another person on a rate-of-gain basis.

"(D) NORMAL CARRYING CAPACITY.—The term 'normal carrying capacity', with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

"(E) NORMAL GRAZING PERIOD.—The term 'normal grazing period', with respect to a county, means the normal grazing period during the calendar year for the county, as determined under paragraph (3)(D)(i).

"(2) PROGRAM.—The Secretary shall use such sums as are necessary from the Trust Fund to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

"(A) a drought condition, as described in paragraph (3); or

"(B) fire, as described in paragraph (4).

"(3) ASSISTANCE FOR LOSSES DUE TO DROUGHT CONDITIONS.—

"(A) ELIGIBLE LOSSES.—

"(i) IN GENERAL.—An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

"(I) is native or improved pastureland with permanent vegetative cover; or

"(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

"(ii) EXCLUSIONS.—An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing 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.).

"(B) MONTHLY PAYMENT RATE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

"(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

"(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

"(ii) PARTIAL COMPENSATION.—In the case of an eligible livestock producer that sold or otherwise disposed of covered livestock due to drought conditions in 1 or both of the 2 production years immediately preceding the current production year, as determined by the Secretary, the payment rate shall be 80 percent of the payment rate otherwise calculated in accordance with clause (i).

"(C) MONTHLY FEED COST.—

"(i) IN GENERAL.—The monthly feed cost shall equal the product obtained by multiplying—

"(I) 30 days;

"(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and

"(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

"(ii) FEED GRAIN EQUIVALENT.—For purposes of clause (i)(I), the feed grain equivalent shall equal—

"(I) in the case of an adult beef cow, 15.7 pounds of corn per day; or

"(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

"(iii) CORN PRICE PER POUND.—For purposes of clause (i)(II), the corn price per pound shall equal the quotient obtained by dividing—

"(I) the higher of—

"(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

"(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

"(II) 56.

"(D) NORMAL GRAZING PERIOD AND DROUGHT MONITOR INTENSITY.—

"(i) FSA COUNTY COMMITTEE DETERMINATIONS.—

"(I) IN GENERAL.—The Secretary shall determine the normal carrying capacity and normal grazing period for each type of grazing land or pastureland in the county served by the applicable committee.

"(II) CHANGES.—No change to the normal carrying capacity or normal grazing period established for a county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

"(ii) DROUGHT INTENSITY.—

"(I) D2.—An eligible livestock producer that owns or leases grazing land or pastureland that

is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under subparagraph (B).

"(II) D3.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having at least a D3 (extreme drought) intensity in any area of the county at any time during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph—

"(aa) in an amount equal to 2 monthly payments using the monthly payment rate determined under subparagraph (B); or

"(bb) if the county is rated as having a D3 (extreme drought) intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period, in an amount equal to 3 monthly payments using the monthly payment rate determined under subparagraph (B).

"(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON PUBLIC MANAGED LAND.—

"(A) IN GENERAL.—An eligible livestock producer may receive assistance under this paragraph only if—

"(i) the grazing losses occur on rangeland that is managed by a Federal agency; and

"(ii) the eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

"(B) PAYMENT RATE.—The payment rate for assistance under this paragraph shall be equal to 50 percent of the monthly feed cost for the total number of livestock covered by the Federal lease of the eligible livestock producer, as determined under paragraph (3)(C).

"(C) PAYMENT DURATION.—

"(i) IN GENERAL.—Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—

"(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and

"(II) ending on the last day of the Federal lease of the eligible livestock producer.

"(ii) LIMITATION.—An eligible livestock producer may only receive assistance under this paragraph for losses that occur on not more than 180 days per year.

"(5) MINIMUM RISK MANAGEMENT PURCHASE REQUIREMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a livestock producer shall only be eligible for assistance under this subsection if the livestock producer—

"(i) obtained a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the grazing land incurring the losses for which assistance is being requested; or

"(ii) filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the grazing land incurring the losses for which assistance is being requested.

"(B) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—In the case of an eligible livestock producer that is a socially disadvantaged farmer or rancher or limited resource or beginning farmer or rancher, as determined by the Secretary, the Secretary may—

"(i) waive subparagraph (A); and

"(ii) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(C) WAIVER FOR 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year but does not meet the requirements of subparagraph (A), the Secretary shall waive subparagraph (A) if the eligible livestock producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under subparagraph (A) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(D) EQUITABLE RELIEF.—

"(i) IN GENERAL.—The Secretary may provide equitable relief to an eligible livestock producer that is otherwise ineligible or unintentionally fails to meet the requirements of subparagraph (A) for the grazing land incurring the loss on a case-by-case basis, as determined by the Secretary.

"(ii) 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible livestock producer failed to meet the requirements of subparagraph (A) due to the enactment of this title after the closing date of sales periods for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and the noninsured crop assistance program.

"(6) NO DUPLICATIVE PAYMENTS.—

"(A) IN GENERAL.—An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph (4), but not both for the same loss, as determined by the Secretary.

"(B) RELATIONSHIP TO SUPPLEMENTAL REVENUE ASSISTANCE.—An eligible livestock producer that receives assistance under this subsection may not also receive assistance for losses to crops on the same land with the same intended use under subsection (b).

"(e) EMERGENCY ASSISTANCE FOR LIVESTOCK, HONEY BEES, AND FARM-RAISED FISH.—

"(1) IN GENERAL.—The Secretary shall use up to $50,000,000 per year from the Trust Fund to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease, adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b), (c), or (d).

"(2) USE OF FUNDS.—Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

"(3) AVAILABILITY OF FUNDS.—Any funds made available under this subsection shall remain available until expended.

"(f) TREE ASSISTANCE PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ORCHARDIST.—The term 'eligible orchardist' means a person that produces annual crops from trees for commercial purposes.

"(B) NATURAL DISASTER.—The term 'natural disaster' means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other occurrence, as determined by the Secretary.

"(C) NURSERY TREE GROWER.—The term 'nursery tree grower' means a person who produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale, as determined by the Secretary.

"(D) TREE.—The term 'tree' includes a tree, bush, and vine.

"(2) ELIGIBILITY.—

"(A) LOSS.—Subject to subparagraph (B), the Secretary shall provide assistance—

"(i) under paragraph (3) to eligible orchardists and nursery tree growers that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary; and

"(ii) under paragraph (3)(B) to eligible orchardists and nursery tree growers that have a production history for commercial purposes on planted or existing trees but lost the trees as a result of a natural disaster, as determined by the Secretary.

"(B) LIMITATION.—An eligible orchardist or nursery tree grower shall qualify for assistance under subparagraph (A) only if the tree mortality of the eligible orchardist or nursery tree grower, as a result of damaging weather

or related condition, exceeds 15 percent (adjusted for normal mortality).

"(3) ASSISTANCE.—Subject to paragraph (4), the assistance provided by the Secretary to eligible orchardists and nursery tree growers for losses described in paragraph (2) shall consist of—

"(A)(i) reimbursement of 70 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

"(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

"(B) reimbursement of 50 percent of the cost of pruning, removal, and other costs incurred by an eligible orchardist or nursery tree grower to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees as a result of damage or tree mortality due to a natural disaster, as determined by the Secretary, in excess of 15 percent damage or mortality (adjusted for normal tree damage and mortality).

"(4) LIMITATIONS ON ASSISTANCE.—

"(A) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this paragraph, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(B) AMOUNT.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this subsection may not exceed $100,000 for any crop year, or an equivalent value in tree seedlings.

"(C) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.

"(g) RISK MANAGEMENT PURCHASE REQUIREMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the eligible producers on a farm shall not be eligible for assistance under this section (other than subsection (c)) if the eligible producers on the farm—

"(A) in the case of each insurable commodity of the eligible producers on the farm, did not obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (excluding a crop insurance pilot program under that Act); or

"(B) in the case of each noninsurable commodity of the eligible producers on the farm, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program.

"(2) MINIMUM.—To be considered to have obtained insurance under paragraph (1)(A), an eligible producer on a farm shall have obtained a policy or plan of insurance with not less than 50 percent yield coverage at 55 percent of the insurable price for each crop grazed, planted, or intended to be planted for harvest on a whole farm.

"(3) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—With respect to eligible producers that are socially disadvantaged farmers or ranchers or limited resource or beginning farmers or ranchers, as determined by the Secretary, the Secretary may—

"(A) waive paragraph (1); and

"(B) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(4) WAIVER FOR 2008 CROP YEAR.—In the case of an eligible producer that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year but does not meet the requirements of paragraph (1), the Secretary shall waive paragraph (1) if the eligible producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(5) EQUITABLE RELIEF.—

"(A) IN GENERAL.—The Secretary may provide equitable relief to eligible producers on a farm that are otherwise ineligible or unintentionally fail to meet the requirements of paragraph (1) for 1 or more crops on a farm on a case-by-case basis, as determined by the Secretary.

"(B) 2008 CROP YEAR.—In the case of eligible producers on a farm that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible producers failed to meet the requirements of paragraph (1) due to the enactment of this title after the closing date of sales periods for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and the noninsured crop assistance program.

"(h) PAYMENT LIMITATIONS.—

"(1) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this subsection, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(2) AMOUNT.—The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section (excluding payments received under subsection (f)) may not exceed $100,000 for any crop year.

"(3) AGI LIMITATION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) or any successor provision shall apply with respect to assistance provided under this section.

"(4) DIRECT ATTRIBUTION.—Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions relating to direct attribution shall apply with respect to assistance provided under this section.

"(i) PERIOD OF EFFECTIVENESS.—This section shall be effective only for losses that are incurred as the result of a disaster, adverse weather, or other environmental condition that occurs on or before September 30, 2011, as determined by the Secretary.

"(j) NO DUPLICATIVE PAYMENTS.—In implementing any other program which makes disaster assistance payments (except for indemnities made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.)) and section 196 of the Federal Agriculture Improvement and Reform Act of 1996), the Secretary shall prevent duplicative payments with respect to the same loss for which a person receives a payment under subsections (b), (c), (d), (e), or (f).

"SEC. 902. AGRICULTURAL DISASTER RELIEF TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Agricultural Disaster Relief Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section.

"(b) TRANSFER TO TRUST FUND.—

"(1) IN GENERAL.—There are appropriated to the Agricultural Disaster Relief Trust Fund amounts equivalent to 3.08 percent of the amounts received in the general fund of the Treasury of the United States during fiscal years 2008 through 2011 attributable to the duties collected on articles entered, or withdrawn from warehouse, for consumption under the Harmonized Tariff Schedule of the United States.

"(2) AMOUNTS BASED ON ESTIMATES.—The amounts appropriated under this section shall be transferred at least monthly from the general fund of the Treasury of the United States to the Agricultural Disaster Relief Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(3) LIMITATION ON TRANSFERS TO AGRICULTURAL DISASTER RELIEF TRUST FUND.—No amount may be appropriated to the Agricultural Disaster Relief Trust Fund on and after the date of any expenditure from the Agricultural Disaster Relief Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

"(c) ADMINISTRATION.—

"(1) REPORTS.—The Secretary of the Treasury shall be the trustee of the Agricultural Disaster Relief Trust Fund and shall submit an annual report to Congress each year on the financial condition and the results of the operations of such Trust Fund during the preceding fiscal year and on its expected condition and operations during the 4 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of Congress to which the report is made.

"(2) INVESTMENT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Agricultural Disaster Relief Trust Fund as is not in his judgment required to meet current withdrawals. Such investments may be made only in

interest bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(i) on original issue at the issue price, or

"(ii) by purchase of outstanding obligations at the market price.

"(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Agricultural Disaster Relief Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Agricultural Disaster Relief Trust Fund shall be credited to and form a part of such Trust Fund.

"(d) EXPENDITURES FROM TRUST FUND.—Amounts in the Agricultural Disaster Relief Trust Fund shall be available for the purposes of making expenditures to meet those obligations of the United States incurred under section 901 or section 531 of the Federal Crop Insurance Act (as such sections are in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008).

"(e) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated, and are appropriated, to the Agricultural Disaster Relief Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

"(2) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made to the Agricultural Disaster Relief Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in such Trust Fund.

"(B) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be—

"(i) at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding, and

"(ii) compounded annually.

"SEC. 903. JURISDICTION.

"Legislation in the Senate of the United States amending section 901 or 902 shall be referred to the Committee on Finance of the Senate.".

(b) TRANSITION.—For purposes of the 2008 crop year, the Secretary shall carry out subsections (f)(4) and (h) of section 901 of the Trade Act of 1974 (as added by subsection (a)) in accordance with the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (16 U.S.C. 1308 et seq.), as in effect on September 30, 2007.

(c) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by adding at the end the following:

"TITLE IX—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE

"Sec. 901. Supplemental agricultural disaster assistance.
"Sec. 902. Agricultural Disaster Relief Trust Fund.
"Sec. 903. Jurisdiction.".

Subtitle B—Revenue Provisions for Agriculture Programs

SEC. 15201. CUSTOMS USER FEES.

(a) IN GENERAL.—Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A)) is amended by striking "December 27, 2014" and inserting "November 14, 2017".

(b) OTHER FEES.—Section 13031(j)(3)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(B)(i)) is amended by striking "December 27, 2014" and inserting "September 30, 2017".

(c) TIME FOR REMITTING CERTAIN COBRA FEES.—Notwithstanding any other provision of law, any fees authorized under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (1) through (8)) with respect to customs services provided on or after July 1, 2017, and before September 20, 2017, shall be paid not later than September 25, 2017.

(d) TIME FOR REMITTING CERTAIN MERCHANDISE PROCESSING FEES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any fees authorized under paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (9) and (10)) with respect to processing merchandise entered on or after October 1, 2017, and before November 15, 2017, shall be paid not later than September 25, 2017, in an amount equivalent to the amount of such fees paid by the person responsible for such fees with respect to merchandise entered on or after October 1, 2016, and before November 15, 2016, as determined by the Secretary of the Treasury.

(2) RECONCILIATION OF MERCHANDISE PROCESSING FEES.—Not later than December 15, 2017, the Secretary of the Treasury shall reconcile the fees paid pursuant to paragraph (1) with the fees for services actually provided on or after October 1, 2017, and before November 15, 2017, and shall refund with interest any overpayment of such fees and make proper adjustments with respect to any underpayment of such fees. No interest may be assessed with respect to any such underpayment that was based on the amount of fees paid for merchandise entered on or after October 1, 2016, and before November 15, 2016.

SEC. 15202. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 7.75 percentage points.

Subtitle C—Tax Provisions

PART I—CONSERVATION

Subpart A—Land and Species Preservation Provisions

SEC. 15301. EXCLUSION OF CONSERVATION RESERVE PROGRAM PAYMENTS FROM SECA TAX FOR CERTAIN INDIVIDUALS.

(a) INTERNAL REVENUE CODE.—Section 1402(a)(1) (defining net earnings from self-employment) is amended by inserting ", and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2)) to individuals receiving benefits under section 202 or 223 of the Social Security Act" after "crop shares".

(b) SOCIAL SECURITY ACT.—Section 211(a)(1) of the Social Security Act is amended by inserting ", and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2)) to individuals receiving benefits under section 202 or 223" after "crop shares".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 2007.

SEC. 15302. TWO-YEAR EXTENSION OF SPECIAL RULE ENCOURAGING CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—

(1) INDIVIDUALS.—Section 170(b)(1)(E)(vi) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(2) CORPORATIONS.—Section 170(b)(2)(B)(iii) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.

SEC. 15303. DEDUCTION FOR ENDANGERED SPECIES RECOVERY EXPENDITURES.

(a) DEDUCTION FOR ENDANGERED SPECIES RECOVERY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (1) of section 175(c) (relating to definitions) is amended by inserting after the first sentence the following new sentence: "Such term shall include expenditures paid or incurred for the purpose of achieving site-specific management actions recommended in recovery plans approved pursuant to the Endangered Species Act of 1973.".

(2) CONFORMING AMENDMENTS.—

(A) Section 175 is amended by inserting ", or for endangered species recovery" after "prevention of erosion of land used in farming" each place it appears in subsections (a) and (c).

(B) The heading of section 175 is amended by inserting "**; ENDANGERED SPECIES RECOVERY EXPENDITURES**" before the period.

(C) The item relating to section 175 in the table of sections for part VI of subchapter B of chapter 1 is amended

by inserting "; endangered species recovery expenditures" before the period.

(b) LIMITATIONS.—Paragraph (3) of section 175(c) (relating to additional limitations) is amended—

(1) in the heading of subparagraph (A), by inserting "OR ENDANGERED SPECIES RECOVERY PLAN" after "CONSERVATION PLAN", and

(2) in subparagraph (A)(i), by inserting "or the recovery plan approved pursuant to the Endangered Species Act of 1973" after "Department of Agriculture".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2008.

Subpart B—Timber Provisions

SEC. 15311. TEMPORARY REDUCTION IN RATE OF TAX ON QUALIFIED TIMBER GAIN OF CORPORATIONS.

(a) IN GENERAL.—Section 1201 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c) and by adding after subsection (a) the following new subsection:

"(b) SPECIAL RATE FOR QUALIFIED TIMBER GAINS.—

"(1) IN GENERAL.—If, for any taxable year ending after the date of the enactment of the Food, Conservation, and Energy Act of 2008 and beginning on or before the date which is 1 year after such date, a corporation has both a net capital gain and qualified timber gain—

"(A) subsection (a) shall apply to such corporation for the taxable year without regard to whether the applicable tax rate exceeds 35 percent, and

"(B) the tax computed under subsection (a)(2) shall be equal to the sum of—

"(i) 15 percent of the least of—

"(I) qualified timber gain,

"(II) net capital gain, or

"(III) taxable income, plus

"(ii) 35 percent of the excess (if any) of taxable income over the sum of the amounts for which a tax was determined under subsection (a)(1) and clause (i).

"(2) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means, with respect to any taxpayer for any taxable year, the excess (if any) of—

"(A) the sum of the taxpayer's gains described in subsections (a) and (b) of section 631 for such year, over

"(B) the sum of the taxpayer's losses described in such subsections for such year.

For purposes of subparagraphs (A) and (B), only timber held more than 15 years shall be taken into account.

"(3) COMPUTATION FOR TAXABLE YEARS IN WHICH RATE FIRST APPLIES OR ENDS.—In the case of any taxable year which includes either of the dates set forth in paragraph (1), the qualified timber gain for such year shall not exceed the qualified timber gain properly taken into account for—

"(A) in the case of the taxable year including the date of the enactment of the Food, Conservation, and Energy Act of 2008, the portion of the year after such date, and

"(B) in the case of the taxable year including the date which is 1 year after such date of enactment, the portion of the year on or before such later date.".

(b) MINIMUM TAX.—Subsection (b) of section 55 is amended by adding at the end the following paragraph:

"(4) MAXIMUM RATE OF TAX ON QUALIFIED TIMBER GAIN OF CORPORATIONS.—In the case of any taxable year to which section 1201(b) applies, the amount determined under clause (i) of subparagraph (B) shall not exceed the sum of—

"(A) 20 percent of so much of the taxable excess (if any) as exceeds the qualified timber gain (or, if less, the net capital gain), plus

"(B) 15 percent of the taxable excess in excess of the amount on which a tax is determined under subparagraph (A).

Any term used in this paragraph which is also used in section 1201 shall have the meaning given such term by such section, except to the extent such term is subject to adjustment under this part.".

(c) CONFORMING AMENDMENT.—Section 857(b)(3)(A)(ii) is amended by striking "rate" and inserting "rates".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment.

SEC. 15312. TIMBER REIT MODERNIZATION.

(a) IN GENERAL.—Section 856(c)(5) is amended by adding after subparagraph (G) the following new subparagraph:

"(H) TREATMENT OF TIMBER GAINS.—

"(i) IN GENERAL.—Gain from the sale of real property described in paragraph (2)(D) and (3)(C) shall include gain which is—

"(I) recognized by an election under section 631(a) from timber owned by the real estate investment trust, the cutting of which is provided by a taxable REIT subsidiary of the real estate investment trust;

"(II) recognized under section 631(b); or

"(III) income which would constitute gain under subclause (I) or (II) but for the failure to meet the 1-year holding period requirement.

"(ii) SPECIAL RULES.—

"(I) For purposes of this subtitle, cut timber, the gain from which is recognized by a real estate investment trust pursuant to an election under section 631(a) described in clause (i)(I) or so much of clause (i)(III) as relates to clause (i)(I), shall be deemed to be sold to the taxable REIT subsidiary of the real estate investment trust on the first day of the taxable year.

"(II) For purposes of this subtitle, income described in this subparagraph shall not be treated as gain from the sale of property described in section 1221(a)(1).

"(iii) TERMINATION.—This subparagraph shall not apply to dispositions after the termination date.".

(b) TERMINATION DATE.—Subsection (c) of section 856 is amended by adding at the end the following new paragraph:

"(8) TERMINATION DATE.—For purposes of this subsection, the term 'termination date' means, with respect to any taxpayer, the last day of the taxpayer's first taxable year beginning after the date of the enactment of this paragraph and before the date that is 1 year after such date of enactment.".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.

SEC. 15313. MINERAL ROYALTY INCOME QUALIFYING INCOME FOR TIMBER REITS.

(a) IN GENERAL.—Section 856(c)(2) is amended by striking "and" at the end of subparagraph (G), by inserting "and" at the end of subparagraph (H), and by adding after subparagraph (H) the following new subparagraph:

"(I) mineral royalty income earned in the first taxable year beginning after the date of the enactment of this subparagraph from real property owned by a timber real estate investment trust and held, or once held, in connection with the trade or business of producing timber by such real estate investment trust;".

(b) TIMBER REAL ESTATE INVESTMENT TRUST.—Section 856(c)(5), as amended by this Act, is amended by adding after subparagraph (H) the following new subparagraph:

"(I) TIMBER REAL ESTATE INVESTMENT TRUST.—The term 'timber real estate investment trust' means a real estate investment trust in which more than 50 percent in value of its total assets consists of real property held in connection with the trade or business of producing timber.".

(c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 15314. MODIFICATION OF TAXABLE REIT SUBSIDIARY ASSET TEST FOR TIMBER REITS.

(a) IN GENERAL.—Section 856(c)(4)(B)(ii) is amended by inserting "(in the case of a quarter which closes on or before the termination date, 25 percent in the case of a timber real estate investment trust)" after "REIT subsidiaries".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 15315. SAFE HARBOR FOR TIMBER PROPERTY.

(a) IN GENERAL.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by adding at the end the following new subparagraph:

"(G) SPECIAL RULES FOR SALES TO QUALIFIED ORGANIZATIONS.—

"(i) IN GENERAL.—In the case of the sale of a real estate asset (as defined in section 856(c)(5)(B)) to a qualified organization (as defined in section 170(h)(3)) exclusively for conservation purposes (within the meaning of section 170(h)(1)(C)), subparagraph (D) shall be applied—

"(I) by substituting '2 years' for '4 years' in clause (i), and

"(II) by substituting '2-year period' for '4-year period' in clauses (ii) and (iii).

"(ii) TERMINATION.—This subparagraph shall not apply to sales after the termination date.".

(b) PROHIBITED TRANSACTIONS.—Section 857(b)(6)(D)(v) is amended by inserting ", or, in the case of a sale on or before the termination date, a taxable REIT subsidiary" after "any income".

(c) SALES THAT ARE NOT PROHIBITED TRANSACTIONS.—Section 857(b)(6), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(H) SALES OF PROPERTY THAT ARE NOT A PROHIBITED TRANSACTION.—In the case of a sale on or before the termination date, the sale of property which is not a prohibited transaction through the application of subparagraph (D) shall be considered property held for investment or for use in a trade or business and not property described in section 1221(a)(1) for all purposes of this subtitle.".

(d) TERMINATION DATE.—Section 857(b)(6), as amended by subsections (a) and (c), is amended by adding at the end the following new subparagraph:

"(I) TERMINATION DATE.—For purposes of this paragraph, the term 'termination date' has the meaning given such term by section 856(c)(8).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.

SEC. 15316. QUALIFIED FORESTRY CONSERVATION BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart I—Qualified Tax Credit Bonds

"Sec. 54A. Credit to holders of qualified tax credit bonds.
"Sec. 54B. Qualified forestry conservation bonds.

"SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CREDIT BONDS.

"(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a qualified tax credit bond on one or more credit allowance dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tax credit bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tax credit bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The applicable

credit rate with respect to any qualified tax credit bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

"(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

"(d) QUALIFIED TAX CREDIT BOND.—For purposes of this section—

"(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means a qualified forestry conservation bond which is part of an issue that meets the requirements of paragraphs (2), (3), (4), (5), and (6).

"(2) SPECIAL RULES RELATING TO EXPENDITURES.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects—

"(i) 100 percent or more of the available project proceeds to be spent for 1 or more qualified purposes within the 3-year period beginning on such date of issuance, and

"(ii) a binding commitment with a third party to spend at least 10 percent of such available project proceeds will be incurred within the 6-month period beginning on such date of issuance.

"(B) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 3 YEARS.—

"(i) IN GENERAL.—To the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

"(ii) EXPENDITURE PERIOD.—For purposes of this subpart, the term 'expenditure period' means, with respect to any issue, the 3-year period beginning on

the date of issuance. Such term shall include any extension of such period under clause (iii).

"(iii) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

"(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means a purpose specified in section 54B(e).

"(D) REIMBURSEMENT.—For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if—

"(i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,

"(ii) not later than 60 days after payment of the original expenditure, the issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

"(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

"(3) REPORTING.—An issue shall be treated as meeting the requirements of this paragraph if the issuer of qualified tax credit bonds submits reports similar to the reports required under section 149(e).

"(4) SPECIAL RULES RELATING TO ARBITRAGE.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the issuer satisfies the requirements of section 148 with respect to the proceeds of the issue.

"(B) SPECIAL RULE FOR INVESTMENTS DURING EXPENDITURE PERIOD.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.

"(C) SPECIAL RULE FOR RESERVE FUNDS.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if—

"(i) such fund is funded at a rate not more rapid than equal annual installments,

"(ii) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and

"(iii) the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.

"(5) MATURITY LIMITATION.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the maturity of any bond which is part of such issue does not exceed the maximum term determined by the Secretary under subparagraph (B).

"(B) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

"(6) PROHIBITION ON FINANCIAL CONFLICTS OF INTEREST.—An issue shall be treated as meeting the requirements of this paragraph if the issuer certifies that—

"(A) applicable State and local law requirements governing conflicts of interest are satisfied with respect to such issue, and

"(B) if the Secretary prescribes additional conflicts of interest rules governing the appropriate Members of Congress, Federal, State, and local officials, and their spouses, such additional rules are satisfied with respect to such issue.

"(e) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

"(4) AVAILABLE PROJECT PROCEEDS.—The term 'available project proceeds' means—

"(A) the excess of—

"(i) the proceeds from the sale of an issue, over

"(ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and

"(B) the proceeds from any investment of the excess described in subparagraph (A).

"(f) CREDIT TREATED AS INTEREST.—For purposes of this subtitle, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.

"(g) S CORPORATIONS AND PARTNERSHIPS.—In the case of a tax credit bond held by an S corporation or partnership, the allocation of the credit allowed by this section to the shareholders of such corporation or partners of such partnership shall be treated as a distribution.

"(h) BONDS HELD BY REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If any qualified tax credit bond is held by a regulated investment company or a real estate investment trust, the credit determined under subsection (a) shall be allowed to shareholders of such company or beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be treated as distributed to such shareholders or beneficiaries) under procedures prescribed by the Secretary.

"(i) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified tax credit bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tax credit bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

"SEC. 54B. QUALIFIED FORESTRY CONSERVATION BONDS.

"(a) QUALIFIED FORESTRY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified forestry conservation bond' means any bond issued as part of an issue if—

"(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified forestry conservation purposes,

"(2) the bond is issued by a qualified issuer, and

"(3) the issuer designates such bond for purposes of this section.

"(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (d).

"(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified forestry conservation bond limitation of $500,000,000.

"(d) ALLOCATIONS.—

"(1) IN GENERAL.—The Secretary shall make allocations of the amount of the national qualified forestry conservation bond limitation described in subsection (c) among qualified forestry conservation purposes in such manner as the Secretary determines appropriate so as to ensure that all of such limitation is allocated before the date which is 24 months after the date of the enactment of this section.

"(2) SOLICITATION OF APPLICATIONS.—The Secretary shall solicit applications for allocations of the national qualified forestry conservation bond limitation described in subsection (c)

not later than 90 days after the date of the enactment of this section.

"(e) QUALIFIED FORESTRY CONSERVATION PURPOSE.—For purposes of this section, the term 'qualified forestry conservation purpose' means the acquisition by a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)) from an unrelated person of forest and forest land that meets the following qualifications:

"(1) Some portion of the land acquired must be adjacent to United States Forest Service Land.

"(2) At least half of the land acquired must be transferred to the United States Forest Service at no net cost to the United States and not more than half of the land acquired may either remain with or be conveyed to a State.

"(3) All of the land must be subject to a native fish habitat conservation plan approved by the United States Fish and Wildlife Service.

"(4) The amount of acreage acquired must be at least 40,000 acres.

"(f) QUALIFIED ISSUER.—For purposes of this section, the term 'qualified issuer' means a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)).

"(g) SPECIAL ARBITRAGE RULE.—In the case of any qualified forestry conservation bond issued as part of an issue, section 54A(d)(4)(C) shall be applied to such issue without regard to clause (i).

"(h) ELECTION TO TREAT 50 PERCENT OF BOND ALLOCATION AS PAYMENT OF TAX.—

"(1) IN GENERAL.—If—

"(A) a qualified issuer receives an allocation of any portion of the national qualified forestry conservation bond limitation described in subsection (c), and

"(B) the qualified issuer elects the application of this subsection with respect to such allocation,

then the qualified issuer (without regard to whether the issuer is subject to tax under this chapter) shall be treated as having made a payment against the tax imposed by this chapter, for the taxable year preceding the taxable year in which the allocation is received, in an amount equal to 50 percent of the amount of such allocation.

"(2) TREATMENT OF DEEMED PAYMENT.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall not use the payment of tax described in paragraph (1) as an offset or credit against any tax liability of the qualified issuer but shall refund such payment to such issuer.

"(B) NO INTEREST.—Except as provided in paragraph (3)(A), the payment described in paragraph (1) shall not be taken into account in determining any amount of interest under this title.

"(3) REQUIREMENT FOR, AND EFFECT OF, ELECTION.—

"(A) REQUIREMENT.—No election under this subsection shall take effect unless the qualified issuer certifies to the Secretary that any payment of tax refunded to the issuer under this subsection will be used exclusively for 1 or more qualified forestry conservation purposes. If the

qualified issuer fails to use any portion of such payment for such purpose, the issuer shall be liable to the United States in an amount equal to such portion, plus interest at the overpayment rate under section 6621 for the period from the date such portion was refunded to the date such amount is paid. Any such amount shall be assessed and collected in the same manner as tax imposed by this chapter, except that subchapter B of chapter 63 (relating to deficiency procedures) shall not apply in respect of such assessment or collection.

"(B) EFFECT OF ELECTION ON ALLOCATION.—If a qualified issuer makes the election under this subsection with respect to any allocation—

"(i) the issuer may issue no bonds pursuant to the allocation, and

"(ii) the Secretary may not reallocate such allocation for any other purpose.".

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(9) REPORTING OF CREDIT ON QUALIFIED TAX CREDIT BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54A and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(e)(1)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(c) CONFORMING AMENDMENTS.—

(1) Sections 54(c)(2) and 1400N(l)(3)(B) are each amended by striking "subpart C" and inserting "subparts C and I".

(2) Section 1397E(c)(2) is amended by striking "subpart H" and inserting "subparts H and I".

(3) Section 6401(b)(1) is amended by striking "and H" and inserting "H, and I".

(4) The heading of subpart H of part IV of subchapter A of chapter 1 is amended by striking "**Certain Bonds**" and inserting "**Clean Renewable Energy Bonds**".

(5) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart H and inserting the following new items:

"SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

"SUBPART I. QUALIFIED TAX CREDIT BONDS.".

(6) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by striking "or 6428 or 53(e)" and inserting ", 53(e), 54B(h), or 6428".

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART II—ENERGY PROVISIONS

Subpart A—Cellulosic Biofuel

SEC. 15321. CREDIT FOR PRODUCTION OF CELLULOSIC BIOFUEL.

(a) IN GENERAL.—Subsection (a) of section 40 (relating to alcohol used as fuel) is amended by striking "plus" at the end of paragraph (1), by striking "plus" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", plus", and by adding at the end the following new paragraph:

"(4) the cellulosic biofuel producer credit.".

(b) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 40 is amended by adding at the end the following new paragraph:

"(6) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

"(A) IN GENERAL.—The cellulosic biofuel producer credit of any taxpayer is an amount equal to the applicable amount for each gallon of qualified cellulosic biofuel production.

"(B) APPLICABLE AMOUNT.—For purposes of subparagraph (A), the applicable amount means $1.01, except that such amount shall, in the case of cellulosic biofuel which is alcohol, be reduced by the sum of—

"(i) the amount of the credit in effect for such alcohol under subsection (b)(1) (without regard to subsection (b)(3)) at the time of the qualified cellulosic biofuel production, plus

"(ii) in the case of ethanol, the amount of the credit in effect under subsection (b)(4) at the time of such production.

"(C) QUALIFIED CELLULOSIC BIOFUEL PRODUCTION.—For purposes of this section, the term 'qualified cellulosic biofuel production' means any cellulosic biofuel which is produced by the taxpayer, and which during the taxable year—

"(i) is sold by the taxpayer to another person—

"(I) for use by such other person in the production of a qualified cellulosic biofuel mixture in such other person's trade or business (other than casual off-farm production),

"(II) for use by such other person as a fuel in a trade or business, or

"(III) who sells such cellulosic biofuel at retail to another person and places such cellulosic biofuel in the fuel tank of such other person, or

"(ii) is used or sold by the taxpayer for any purpose described in clause (i).

The qualified cellulosic biofuel production of any taxpayer for any taxable year shall not include any alcohol which is purchased by the taxpayer and with respect to which such producer increases the proof of the alcohol by additional distillation.

"(D) QUALIFIED CELLULOSIC BIOFUEL MIXTURE.—For purposes of this paragraph, the term 'qualified cellulosic

biofuel mixture' means a mixture of cellulosic biofuel and gasoline or of cellulosic biofuel and a special fuel which—

"(i) is sold by the person producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the person producing such mixture.

"(E) CELLULOSIC BIOFUEL.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'cellulosic biofuel' means any liquid fuel which—

"(I) is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and

"(II) meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

"(ii) EXCLUSION OF LOW-PROOF ALCOHOL.—Such term shall not include any alcohol with a proof of less than 150. The determination of the proof of any alcohol shall be made without regard to any added denaturants.

"(F) ALLOCATION OF CELLULOSIC BIOFUEL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—Rules similar to the rules under subsection (g)(6) shall apply for purposes of this paragraph.

"(G) REGISTRATION REQUIREMENT.—No credit shall be determined under this paragraph with respect to any taxpayer unless such taxpayer is registered with the Secretary as a producer of cellulosic biofuel under section 4101.

"(H) APPLICATION OF PARAGRAPH.—This paragraph shall apply with respect to qualified cellulosic biofuel production after December 31, 2008, and before January 1, 2013.".

(2) TERMINATION DATE NOT TO APPLY.—Subsection (e) of section 40 (relating to termination) is amended—

(A) by inserting "or subsection (b)(6)(H)" after "by reason of paragraph (1)" in paragraph (2), and

(B) by adding at the end the following new paragraph:

"(3) EXCEPTION FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.—Paragraph (1) shall not apply to the portion of the credit allowed under this section by reason of subsection (a)(4).".

(3) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4101(a) is amended—

(i) by striking "and every person" and inserting ", every person", and

(ii) by inserting ", and every person producing cellulosic biofuel (as defined in section 40(b)(6)(E))" after "section 6426(b)(4)(A))".

(B) The heading of section 40, and the item relating to such section in the table of sections for subpart D of part IV of subchapter A of chapter 1, are each amended by inserting ", etc.," after "Alcohol".

(c) BIOFUEL NOT USED AS A FUEL, ETC.—

(1) IN GENERAL.—Paragraph (3) of section 40(d) is amended by redesignating subparagraph (D) as subparagraph (E) and

by inserting after subparagraph (C) the following new subparagraph:

"(D) CELLULOSIC BIOFUEL PRODUCER CREDIT.—If—

"(i) any credit is allowed under subsection (a)(4), and

"(ii) any person does not use such fuel for a purpose described in subsection (b)(6)(C),

then there is hereby imposed on such person a tax equal to the applicable amount (as defined in subsection (b)(6)(B)) for each gallon of such cellulosic biofuel.".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 40(d)(3) is amended by striking "PRODUCER" in the heading and inserting "SMALL ETHANOL PRODUCER".

(B) Subparagraph (E) of section 40(d)(3), as redesignated by paragraph (1), is amended by striking "or (C)" and inserting "(C), or (D)".

(d) BIOFUEL PRODUCED IN THE UNITED STATES.—Section 40(d) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULE FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.—No cellulosic biofuel producer credit shall be determined under subsection (a) with respect to any cellulosic biofuel unless such cellulosic biofuel is produced in the United States and used as a fuel in the United States. For purposes of this subsection, the term 'United States' includes any possession of the United States.".

(e) WAIVER OF CREDIT LIMIT FOR CELLULOSIC BIOFUEL PRODUCTION BY SMALL ETHANOL PRODUCERS.—Section 40(b)(4)(C) is amended by inserting "(determined without regard to any qualified cellulosic biofuel production)" after "15,000,000 gallons".

(f) DENIAL OF DOUBLE BENEFIT.—

(1) BIODIESEL.—Paragraph (1) of section 40A(d) is amended by adding at the end the following new flush sentence:

"Such term shall not include any liquid with respect to which a credit may be determined under section 40.".

(2) RENEWABLE DIESEL.—Paragraph (3) of section 40A(f) is amended by adding at the end the following new flush sentence:

"Such term shall not include any liquid with respect to which a credit may be determined under section 40.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced after December 31, 2008.

SEC. 15322. COMPREHENSIVE STUDY OF BIOFUELS.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Agriculture, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, shall enter into an agreement with the National Academy of Sciences to produce an analysis of current scientific findings to determine—

(1) current biofuels production, as well as projections for future production,

(2) the maximum amount of biofuels production capable in United States forests and farmlands, including the current quantities and character of the feedstocks and including such information as regional forest inventories that are commercially available, used in the production of biofuels,

(3) the domestic effects of an increase in biofuels production levels, including the effects of such levels on—

(A) the price of fuel,

(B) the price of land in rural and suburban communities,

(C) crop acreage, forest acreage, and other land use,

(D) the environment, due to changes in crop acreage, fertilizer use, runoff, water use, emissions from vehicles utilizing biofuels, and other factors,

(E) the price of feed,

(F) the selling price of grain crops and forest products,

(G) exports and imports of grains and forest products,

(H) taxpayers, through cost or savings to commodity crop payments, and

(I) the expansion of refinery capacity,

(4) the ability to convert corn ethanol plants for other uses, such as cellulosic ethanol or biodiesel,

(5) a comparative analysis of corn ethanol versus other biofuels and renewable energy sources, considering cost, energy output, and ease of implementation,

(6) the impact of the tax credit established by this subpart on the regional agricultural and silvicultural capabilities of commercially available forest inventories, and

(7) the need for additional scientific inquiry, and specific areas of interest for future research.

(b) REPORT.—The Secretary of the Treasury shall submit an initial report of the findings of the study required under subsection (a) to Congress not later than 6 months after the date of the enactment of this Act (36 months after such date in the case of the information required by subsection (a)(6)), and a final report not later than 12 months after such date (42 months after such date in the case of the information required by subsection (a)(6)).

Subpart B—Revenue Provisions

SEC. 15331. MODIFICATION OF ALCOHOL CREDIT.

(a) INCOME TAX CREDIT.—

(1) IN GENERAL.—The table in paragraph (2) of section 40(h) is amended—

(A) by striking "through 2010" in the first column and inserting ", 2006, 2007, or 2008",

(B) by striking the period at the end of the third row, and

(C) by adding at the end the following new row:

"2009 through 2010 45 cents ..... 33.33 cents.".

(2) EXCEPTION.—Section 40(h) is amended by adding at the end the following new paragraph:

"(3) REDUCTION DELAYED UNTIL ANNUAL PRODUCTION OR IMPORTATION OF 7,500,000,000 GALLONS.—

"(A) IN GENERAL.—In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in subparagraph (B) with respect to all preceding calendar years beginning after 2007, the last row in the table in paragraph (2) shall be applied by substituting '51 cents' for '45 cents'.

"(B) DETERMINATION.—A determination described in this subparagraph with respect to any calendar year is a determination, in consultation with the Administrator of the Environmental Protection Agency, that an amount less than 7,500,000,000 gallons of ethanol (including cellulosic ethanol) has been produced in or imported into the United States in such year.".

(b) EXCISE TAX CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 6426(b)(2) (relating to alcohol fuel mixture credit) is amended by striking "the applicable amount is 51 cents" and inserting "the applicable amount is—

"(i) in the case of calendar years beginning before 2009, 51 cents, and

"(ii) in the case of calendar years beginning after 2008, 45 cents.".

(2) EXCEPTION.—Paragraph (2) of section 6426(b) is amended by adding at the end the following new subparagraph:

"(C) REDUCTION DELAYED UNTIL ANNUAL PRODUCTION OR IMPORTATION OF 7,500,000,000 GALLONS.—In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in section 40(h)(3)(B) with respect to all preceding calendar years beginning after 2007, subparagraph (A)(ii) shall be applied by substituting '51 cents' for '45 cents'."

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 6426(b)(2) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 15332. CALCULATION OF VOLUME OF ALCOHOL FOR FUEL CREDITS.

(a) IN GENERAL.—Paragraph (4) of section 40(d) (relating to volume of alcohol) is amended by striking "5 percent" and inserting "2 percent".

(b) CONFORMING AMENDMENT FOR EXCISE TAX CREDIT.—Section 6426(b) (relating to alcohol fuel mixture credit) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 2 percent of the volume of such alcohol (including denaturants).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2008.

SEC. 15333. ETHANOL TARIFF EXTENSION.

Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States are each amended in the effective period column by striking "1/1/2009" and inserting "1/1/2011".

SEC. 15334. LIMITATIONS ON DUTY DRAWBACK ON CERTAIN IMPORTED ETHANOL.

(a) IN GENERAL.—Section 313(p) of the Tariff Act of 1930 (19 U.S.C. 1313(p)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES FOR ETHYL ALCOHOL.—For purposes of this subsection, any duty paid under subheading 9901.00.50 of the Harmonized Tariff Schedule of the United States on imports of ethyl alcohol or a mixture of ethyl alcohol may not be refunded if the exported article upon which a drawback claim is based does not contain ethyl alcohol or a mixture of ethyl alcohol.".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to—

(1) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, on or after October 1, 2008; and

(2) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, before October 1, 2008, if a duty drawback claim is filed with respect to such imports on or after October 1, 2010.

PART III—AGRICULTURAL PROVISIONS

SEC. 15341. INCREASE IN LOAN LIMITS ON AGRICULTURAL BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 147(c)(2) (relating to exception for first-time farmers) is amended by striking "$250,000" and inserting "$450,000".

(b) INFLATION ADJUSTMENT.—Section 147(c)(2) is amended by adding at the end the following new subparagraph:

"(H) ADJUSTMENTS FOR INFLATION.—In the case of any calendar year after 2008, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as increased under the preceding sentence is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.".

(c) MODIFICATION OF SUBSTANTIAL FARMLAND DEFINITION.—Section 147(c)(2)(E) (defining substantial farmland) is amended by striking "unless" and all that follows through the period and inserting "unless such parcel is smaller than 30 percent of the median size of a farm in the county in which such parcel is located.".

(d) CONFORMING AMENDMENT.—Section 147(c)(2)(C)(i)(II) is amended by striking "$250,000" and inserting "the amount in effect under subparagraph (A)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 15342. ALLOWANCE OF SECTION 1031 TREATMENT FOR EXCHANGES INVOLVING CERTAIN MUTUAL DITCH, RESERVOIR, OR IRRIGATION COMPANY STOCK.

(a) IN GENERAL.—Section 1031 (relating to exchange of property held for productive use or investment) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR MUTUAL DITCH, RESERVOIR, OR IRRIGATION COMPANY STOCK.—For purposes of subsection (a)(2)(B), the term 'stocks' shall not include shares in a mutual ditch, reservoir, or irrigation company if at the time of the exchange—

"(1) the mutual ditch, reservoir, or irrigation company is an organization described in section 501(c)(12)(A) (determined without regard to the percentage of its income that is collected from its members for the purpose of meeting losses and expenses), and

"(2) the shares in such company have been recognized by the highest court of the State in which such company was organized or by applicable State statute as constituting or representing real property or an interest in real property.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to exchanges completed after the date of the enactment of this Act.

SEC. 15343. AGRICULTURAL CHEMICALS SECURITY CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45O. AGRICULTURAL CHEMICALS SECURITY CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible agricultural business, the agricultural chemicals security credit determined under this section for the taxable year is 30 percent of the qualified security expenditures for the taxable year.

"(b) FACILITY LIMITATION.—The amount of the credit determined under subsection (a) with respect to any facility for any taxable year shall not exceed—

"(1) $100,000, reduced by

"(2) the aggregate amount of credits determined under subsection (a) with respect to such facility for the 5 prior taxable years.

"(c) ANNUAL LIMITATION.—The amount of the credit determined under subsection (a) with respect to any taxpayer for any taxable year shall not exceed $2,000,000.

"(d) QUALIFIED CHEMICAL SECURITY EXPENDITURE.—For purposes of this section, the term 'qualified chemical security expenditure' means, with respect to any eligible agricultural business for any taxable year, any amount paid or incurred by such business during such taxable year for—

"(1) employee security training and background checks,

"(2) limitation and prevention of access to controls of specified agricultural chemicals stored at the facility,

"(3) tagging, locking tank valves, and chemical additives to prevent the theft of specified agricultural chemicals or to render such chemicals unfit for illegal use,

"(4) protection of the perimeter of specified agricultural chemicals,

"(5) installation of security lighting, cameras, recording equipment, and intrusion detection sensors,

"(6) implementation of measures to increase computer or computer network security,

"(7) conducting a security vulnerability assessment,

"(8) implementing a site security plan, and

"(9) such other measures for the protection of specified agricultural chemicals as the Secretary may identify in regulation.

Amounts described in the preceding sentence shall be taken into account only to the extent that such amounts are paid or incurred for the purpose of protecting specified agricultural chemicals.

"(e) ELIGIBLE AGRICULTURAL BUSINESS.—For purposes of this section, the term 'eligible agricultural business' means any person in the trade or business of—

"(1) selling agricultural products, including specified agricultural chemicals, at retail predominantly to farmers and ranchers, or

"(2) manufacturing, formulating, distributing, or aerially applying specified agricultural chemicals.

"(f) SPECIFIED AGRICULTURAL CHEMICAL.—For purposes of this section, the term 'specified agricultural chemical' means—

"(1) any fertilizer commonly used in agricultural operations which is listed under—

"(A) section 302(a)(2) of the Emergency Planning and Community Right-to-Know Act of 1986,

"(B) section 101 of part 172 of title 49, Code of Federal Regulations, or

"(C) part 126, 127, or 154 of title 33, Code of Federal Regulations, and

"(2) any pesticide (as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act), including all active and inert ingredients thereof, which is customarily used on crops grown for food, feed, or fiber.

"(g) CONTROLLED GROUPS.—Rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply for purposes of this section.

"(h) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations which—

"(1) provide for the proper treatment of amounts which are paid or incurred for purpose of protecting any specified agricultural chemical and for other purposes, and

"(2) provide for the treatment of related properties as one facility for purposes of subsection (b).

"(i) TERMINATION.—This section shall not apply to any amount paid or incurred after December 31, 2012.".

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking "plus" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", plus", and by adding at the end the following new paragraph:

"(32) in the case of an eligible agricultural business (as defined in section 45O(e)), the agricultural chemicals security credit determined under section 45O(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

"(f) CREDIT FOR SECURITY OF AGRICULTURAL CHEMICALS.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction taken into account in determining the credit under section 45O for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45O(a).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45O. Agricultural chemicals security credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 15344. 3-YEAR DEPRECIATION FOR RACE HORSES THAT ARE 2-YEARS OLD OR YOUNGER.

(a) IN GENERAL.—Clause (i) of section 168(e)(3)(A) (relating to 3-year property) is amended to read as follows:

"(i) any race horse—

"(I) which is placed in service before January 1, 2014, and

"(II) which is placed in service after December 31, 2013, and which is more than 2 years old at the time such horse is placed in service by such purchaser,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2008.

SEC. 15345. TEMPORARY TAX RELIEF FOR KIOWA COUNTY, KANSAS AND SURROUNDING AREA.

(a) IN GENERAL.—Subject to the modifications described in this section, the following provisions of or relating to the Internal Revenue Code of 1986 shall apply to the Kansas disaster area in addition to the areas to which such provisions otherwise apply:

(1) Section 1400N(d) of such Code (relating to special allowance for certain property).

(2) Section 1400N(e) of such Code (relating to increase in expensing under section 179).

(3) Section 1400N(f) of such Code (relating to expensing for certain demolition and clean-up costs).

(4) Section 1400N(k) of such Code (relating to treatment of net operating losses attributable to storm losses).

(5) Section 1400N(n) of such Code (relating to treatment of representations regarding income eligibility for purposes of qualified rental project requirements).

(6) Section 1400N(o) of such Code (relating to treatment of public utility property disaster losses).

(7) Section 1400Q of such Code (relating to special rules for use of retirement funds).

(8) Section 1400R(a) of such Code (relating to employee retention credit for employers).

(9) Section 1400S(b) of such Code (relating to suspension of certain limitations on personal casualty losses).

(10) Section 405 of the Katrina Emergency Tax Relief Act of 2005 (relating to extension of replacement period for non-recognition of gain).

(b) KANSAS DISASTER AREA.—For purposes of this section, the term "Kansas disaster area" means an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA–1699–DR, as in effect on the date of the enactment of this Act) by reason of severe storms and tornados beginning on May 4, 2007, and determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to such storms and tornados.

(c) REFERENCES TO AREA OR LOSS.—

(1) AREA.—Any reference in such provisions to the Katrina disaster area or the Gulf Opportunity Zone shall be treated as a reference to the Kansas disaster area.

(2) LOSS.—Any reference in such provisions to any loss or damage attributable to Hurricane Katrina shall be treated as a reference to any loss or damage attributable to the May 4, 2007, storms and tornados.

(d) REFERENCES TO DATES, ETC.—

(1) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER MAY 5, 2007.—Section 1400N(d) of such Code—

(A) by substituting "qualified Recovery Assistance property" for "qualified Gulf Opportunity Zone property" each place it appears,

(B) by substituting "May 5, 2007" for "August 28, 2005" each place it appears,

(C) by substituting "December 31, 2008" for "December 31, 2007" in paragraph (2)(A)(v),

(D) by substituting "December 31, 2009" for "December 31, 2008" in paragraph (2)(A)(v),

(E) by substituting "May 4, 2007" for "August 27, 2005" in paragraph (3)(A),

(F) by substituting "January 1, 2009" for "January 1, 2008" in paragraph (3)(B), and

(G) determined without regard to paragraph (6) thereof.

(2) INCREASE IN EXPENSING UNDER SECTION 179.—Section 1400N(e) of such Code, by substituting "qualified section 179 Recovery Assistance property" for "qualified section 179 Gulf Opportunity Zone property" each place it appears.

(3) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—Section 1400N(f) of such Code—

(A) by substituting "qualified Recovery Assistance clean-up cost" for "qualified Gulf Opportunity Zone clean-up cost" each place it appears, and

(B) by substituting "beginning on May 4, 2007, and ending on December 31, 2009" for "beginning on August 28, 2005, and ending on December 31, 2007" in paragraph (2) thereof.

(4) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO STORM LOSSES.—Section 1400N(k) of such Code—

(A) by substituting "qualified Recovery Assistance loss" for "qualified Gulf Opportunity Zone loss" each place it appears,

(B) by substituting "after May 3, 2007, and before on January 1, 2010" for "after August 27, 2005, and before January 1, 2008" each place it appears,

(C) by substituting "May 4, 2007" for "August 28, 2005" in paragraph (2)(B)(ii)(I) thereof,

(D) by substituting "qualified Recovery Assistance property" for "qualified Gulf Opportunity Zone property" in paragraph (2)(B)(iv) thereof, and

(E) by substituting "qualified Recovery Assistance casualty loss" for "qualified Gulf Opportunity Zone casualty loss" each place it appears.

(5) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 1400Q of such Code—

(A) by substituting "qualified Recovery Assistance distribution" for "qualified hurricane distribution" each place it appears,

(B) by substituting "on or after May 4, 2007, and before January 1, 2009" for "on or after August 25, 2005, and before January 1, 2007" in subsection (a)(4)(A)(i),

(C) by substituting "May 4, 2007" for "August 28, 2005" in subsections (a)(4)(A)(i) and (c)(3)(B),

(D) disregarding clauses (ii) and (iii) of subsection (a)(4)(A),

(E) by substituting "qualified storm distribution" for "qualified Katrina distribution" each place it appears,

(F) by substituting "after November 4, 2006, and before May 5, 2007" for "after February 28, 2005, and before August 29, 2005" in subsection (b)(2)(B)(ii),

(G) by substituting "the Kansas disaster area (as defined in section 15345(b) of the Food, Conservation, and Energy Act of 2008) but which was not so purchased or constructed on account of the May 4, 2007, storms and tornados" for "the Hurricane Katrina disaster area, but not so purchased or constructed on account of Hurricane Katrina" in subsection (b)(2)(B)(iii),

(H) by substituting "beginning on May 4, 2007, and ending on the date which is 5 months after the date of the enactment of the Heartland, Habitat, Harvest, and Horticulture Act of 2008" for "beginning on August 25, 2005, and ending on February 28, 2006" in subsection (b)(3)(A),

(I) by substituting "qualified storm individual" for "qualified Hurricane Katrina individual" each place it appears,

(J) by substituting "December 31, 2008" for "December 31, 2006" in subsection (c)(2)(A),

(K) by substituting "beginning on the date of the enactment of the Food, Conservation, and Energy Act of 2008 and ending on December 31, 2008" for "beginning on September 24, 2005, and ending on December 31, 2006" in subsection (c)(4)(A)(i),

(L) by substituting "May 4, 2007" for "August 25, 2005" in subsection (c)(4)(A)(ii), and

(M) by substituting "January 1, 2009" for "January 1, 2007" in subsection (d)(2)(A)(ii).

(6) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY MAY 4 STORMS AND TORNADOS.—Section 1400R(a) of the Internal Revenue Code of 1986—

(A) by substituting "May 4, 2007" for "August 28, 2005" each place it appears,

(B) by substituting "January 1, 2008" for "January 1, 2006" both places it appears, and

(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before May 4, 2007.

(7) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1) of the Internal Revenue Code of 1986, by substituting "May 4, 2007" for "August 25, 2005".

(8) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Section 405 of the Katrina Emergency Tax Relief Act of 2005, by substituting "on or after May 4, 2007" for "on or after August 25, 2005".

SEC. 15346. COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.

(a) IN GENERAL.—Section 48A (relating to qualifying advanced coal project credit) is amended by adding at the end the following new subsection:

"(h) COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.—In implementing this section or section 48B, the Secretary is directed to modify the terms of any competitive certification award and any associated closing agreement where such modification—

"(1) is consistent with the objectives of such section,

"(2) is requested by the recipient of the competitive certification award, and

"(3) involves moving the project site to improve the potential to capture and sequester carbon dioxide emissions, reduce costs of transporting feedstock, and serve a broader customer base,

unless the Secretary determines that the dollar amount of tax credits available to the taxpayer under such section would increase as a result of the modification or such modification would result in such project not being originally certified. In considering any such modification, the Secretary shall consult with other relevant Federal agencies, including the Department of Energy.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act and is applicable to all competitive certification awards entered into under section 48A or 48B of the Internal Revenue Code of 1986, whether such awards were issued before, on, or after such date of enactment.

PART IV—OTHER REVENUE PROVISIONS

SEC. 15351. LIMITATION ON EXCESS FARM LOSSES OF CERTAIN TAXPAYERS.

(a) IN GENERAL.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end the following new subsection:

"(j) LIMITATION ON EXCESS FARM LOSSES OF CERTAIN TAXPAYERS.—

"(1) LIMITATION.—If a taxpayer other than a C corporation receives any applicable subsidy for any taxable year, any excess farm loss of the taxpayer for the taxable year shall not be allowed.

"(2) DISALLOWED LOSS CARRIED TO NEXT TAXABLE YEAR.—Any loss which is disallowed under paragraph (1) shall be treated as a deduction of the taxpayer attributable to farming businesses in the next taxable year.

"(3) APPLICABLE SUBSIDY.—For purposes of this subsection, the term 'applicable subsidy' means—

"(A) any direct or counter-cyclical payment under title I of the Food, Conservation, and Energy Act of 2008, or any payment elected to be received in lieu of any such payment, or

"(B) any Commodity Credit Corporation loan.

"(4) EXCESS FARM LOSS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'excess farm loss' means the excess of—

"(i) the aggregate deductions of the taxpayer for the taxable year which are attributable to farming businesses of such taxpayer (determined without regard to whether or not such deductions are disallowed for such taxable year under paragraph (1)), over

"(ii) the sum of—

"(I) the aggregate gross income or gain of such taxpayer for the taxable year which is attributable to such farming businesses, plus

"(II) the threshold amount for the taxable year.

"(B) THRESHOLD AMOUNT.—

"(i) IN GENERAL.—The term 'threshold amount' means, with respect to any taxable year, the greater of—

"(I) $300,000 ($150,000 in the case of married individuals filing separately), or

"(II) the excess (if any) of the aggregate amounts described in subparagraph (A)(ii)(I) for the 5-consecutive taxable year period preceding the taxable year over the aggregate amounts described in subparagraph (A)(i) for such period.

"(ii) SPECIAL RULES FOR DETERMINING AGGREGATE AMOUNTS.—For purposes of clause (i)(II)—

"(I) notwithstanding the disregard in subparagraph (A)(i) of any disallowance under paragraph (1), in the case of any loss which is carried forward under paragraph (2) from any taxable year, such loss (or any portion thereof) shall be taken into account for the first taxable year in which a deduction for such loss (or portion) is not disallowed by reason of this subsection, and

"(II) the Secretary shall prescribe rules for the computation of the aggregate amounts described in such clause in cases where the filing status of the taxpayer is not the same for the taxable year and each of the taxable years in the period described in such clause.

"(C) FARMING BUSINESS.—

"(i) IN GENERAL.—The term 'farming business' has the meaning given such term in section 263A(e)(4).

"(ii) CERTAIN TRADES AND BUSINESSES INCLUDED.—If, without regard to this clause, a taxpayer is engaged

in a farming business with respect to any agricultural or horticultural commodity—

"(I) the term 'farming business' shall include any trade or business of the taxpayer of the processing of such commodity (without regard to whether the processing is incidental to the growing, raising, or harvesting of such commodity), and

"(II) if the taxpayer is a member of a cooperative to which subchapter T applies, any trade or business of the cooperative described in subclause (I) shall be treated as the trade or business of the taxpayer.

"(D) CERTAIN LOSSES DISREGARDED.—For purposes of subparagraph (A)(i), there shall not be taken into account any deduction for any loss arising by reason of fire, storm, or other casualty, or by reason of disease or drought, involving any farming business.

"(5) APPLICATION OF SUBSECTION IN CASE OF PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation—

"(A) this subsection shall be applied at the partner or shareholder level, and

"(B) each partner's or shareholder's proportionate share of the items of income, gain, or deduction of the partnership or S corporation for any taxable year from farming businesses attributable to the partnership or S corporation, and of any applicable subsidies received by the partnership or S corporation during the taxable year, shall be taken into account by the partner or shareholder in applying this subsection to the taxable year of such partner or shareholder with or within which the taxable year of the partnership or S corporation ends.

The Secretary may provide rules for the application of this paragraph to any other pass-thru entity to the extent necessary to carry out the provisions of this subsection.

"(6) ADDITIONAL REPORTING.—The Secretary may prescribe such additional reporting requirements as the Secretary determines appropriate to carry out the purposes of this subsection.

"(7) COORDINATION WITH SECTION 469.—This subsection shall be applied before the application of section 469.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 15352. MODIFICATION TO OPTIONAL METHOD OF COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—The matter following paragraph (17) of section 1402(a) is amended—

(A) by striking "$2,400" each place it appears and inserting "the upper limit", and

(B) by striking "$1,600" each place it appears and inserting "the lower limit".

(2) DEFINITIONS.—Section 1402 is amended by adding at the end the following new subsection:

"(l) UPPER AND LOWER LIMITS.—For purposes of subsection (a)—

"(1) LOWER LIMIT.—The lower limit for any taxable year is the sum of the amounts required under section 213(d) of the Social Security Act for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

"(2) UPPER LIMIT.—The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(1) IN GENERAL.—The matter following paragraph (16) of section 211(a) of the Social Security Act is amended—

(A) by striking "$2,400" each place it appears and inserting "the upper limit", and

(B) by striking "$1,600" each place it appears and inserting "the lower limit".

(2) DEFINITIONS.—Section 211 of such Act is amended by adding at the end the following new subsection:

"(k) UPPER AND LOWER LIMITS.—For purposes of subsection (a)—

"(1) The lower limit for any taxable year is the sum of the amounts required under section 213(d) for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

"(2) The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.".

(3) CONFORMING AMENDMENT.—Section 212 of such Act is amended—

(A) in subsection (b), by striking "For" and inserting "Except as provided in subsection (c), for"; and

(B) by adding at the end the following new subsection:

"(c) For the purpose of determining average indexed monthly earnings, average monthly wage, and quarters of coverage in the case of any individual who elects the option described in clause (ii) or (iv) in the matter following section 211(a)(16) for any taxable year that does not begin with or during a particular calendar year and end with or during such year, the self-employment income of such individual deemed to be derived during such taxable year shall be allocated to the two calendar years, portions of which are included within such taxable year, in the same proportion to the total of such deemed self-employment income as the sum of the amounts applicable under section 213(d) for the calendar quarters ending with or within each such calendar year bears to the lower limit for such taxable year specified in section 211(k)(1).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 15353. INFORMATION REPORTING FOR COMMODITY CREDIT CORPORATION TRANSACTIONS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039I the following new section:

"SEC. 6039J. INFORMATION REPORTING WITH RESPECT TO COMMODITY CREDIT CORPORATION TRANSACTIONS.

"(a) REQUIREMENT OF REPORTING.—The Commodity Credit Corporation, through the Secretary of Agriculture, shall make a return,

according to the forms and regulations prescribed by the Secretary of the Treasury, setting forth any market gain realized by a taxpayer during the taxable year in relation to the repayment of a loan issued by the Commodity Credit Corporation, without regard to the manner in which such loan was repaid.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—The Secretary of Agriculture shall furnish to each person whose name is required to be set forth in a return required under subsection (a) a written statement showing the amount of market gain reported in such return.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039I the following new item:

"Sec. 6039J. Information reporting with respect to Commodity Credit Corporation transactions.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans repaid on or after January 1, 2007.

PART V—PROTECTION OF SOCIAL SECURITY

SEC. 15361. PROTECTION OF SOCIAL SECURITY.

To ensure that the assets of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401) are not reduced as a result of the enactment of this Act, the Secretary of the Treasury shall transfer annually from the general revenues of the Federal Government to those trust funds the following amounts:

(1) For fiscal year 2009, $5,000,000.
(2) For fiscal year 2010, $9,000,000.
(3) For fiscal year 2011, $8,000,000.
(4) For fiscal year 2012, $7,000,000.
(5) For fiscal year 2013, $8,000,000.
(6) For fiscal year 2014, $8,000,000.
(7) For fiscal year 2015, $8,000,000.
(8) For fiscal year 2016, $6,000,000.
(9) For fiscal year 2017, $7,000,000.

Subtitle D—Trade Provisions

PART I—EXTENSION OF CERTAIN TRADE BENEFITS

SEC. 15401. SHORT TITLE.

This part may be cited as the "Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008" or the "HOPE II Act".

SEC. 15402. BENEFITS FOR APPAREL AND OTHER TEXTILE ARTICLES.

(a) VALUE-ADDED RULE.—Section 213A(b) of the Carribean Basin Economic Recovery Act (19 U.S.C. 2703a(b)) is amended as follows:

(1) The subsection heading is amended to read as follows: "APPAREL AND OTHER TEXTILE ARTICLES".

(2) Paragraph (1) is amended to read as follows:

"(1) VALUE-ADDED RULE FOR APPAREL ARTICLES.—

"(A) IN GENERAL.—Apparel articles described in subparagraph (B) of a producer or entity controlling production that are imported directly from Haiti or the Dominican Republic shall enter the United States free of duty during an applicable 1-year period, subject to the limitations set forth in subparagraphs (B) and (C), and subject to subparagraph (D).".

(3) Paragraph (2) is amended—

(A) in subparagraph (A)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i), by striking "subparagraph (C)" and inserting "clause (iii)";

(iii) in clause (ii), by striking "subparagraph (C)" and inserting "clause (iii)";

(iv) in the matter following clause (ii), by striking "subparagraph (E)(I)" and inserting "clause (v)(I)";

(v) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(vi) by redesignating subparagraph (A) as clause (i);

(B) in subparagraph (B)—

(i) by moving such subparagraph 2 ems to the right;

(ii) by striking "subparagraph (A)(i)" each place it appears and inserting "clause (i)(I)";

(iii) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(iv) by redesignating subparagraph (B) as clause (ii);

(C) in subparagraph (C)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in the matter preceding clause (i), by striking "subparagraph (A)" and inserting "clause (i)";

(iii) in clause (ii), by striking "that enters into force" and all that follows through "et seq.)" and inserting "that enters into force thereafter";

(iv) by redesignating clauses (i) through (v) as subclauses (I) through (V), respectively; and

(v) by redesignating subparagraph (C) as clause (iii);

(D) in subparagraph (D)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) in the matter preceding subclause (I), by striking "subparagraph (A)" and inserting "clause (i)";

(II) in subclause (I), by striking "clause (i) of subparagraph (A)" and inserting "subclause (I) of clause (i)";

(III) in subclause (II), by striking "clause (ii) of subparagraph (A)" and inserting "subclause (II) of clause (i)";

(IV) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(V) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in the matter preceding subclause (I), by striking "subparagraph (A)" and inserting "clause (i)";

(II) in subclause (I), by striking "clause (i) of subparagraph (A)" and inserting "subclause (I) of clause (i)";

(III) in subclause (II), by striking "clause (ii) of subparagraph (A)" and inserting "subclause (II) of clause (i)";

(IV) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(V) by redesignating clause (ii) as subclause (II);

(iv) in clause (iii)—

(I) by striking "clause (i)(I) or (ii)(I)" each place it appears and inserting "subclause (I)(aa) or (II)(aa)";

(II) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(III) by redesignating clause (iii) as subclause (III);

(v) by amending clause (iv) to read as follows:

"(IV) INCLUSION IN CALCULATION OF OTHER ARTICLES RECEIVING PREFERENTIAL TREATMENT.—Entries of apparel articles that receive preferential treatment under any provision of law other than this subparagraph or are subject to the 'General' column 1 rate of duty under the HTS are not included in the annual aggregation under subclause (I) or (II) unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries in such aggregation."; and

(vi) by redesignating subparagraph (D) as clause (iv);

(E) in subparagraph (E)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) by redesignating subclauses (I) through (III) as items (aa) through (cc), respectively; and

(II) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) by striking "subparagraph (C)" and inserting "clause (iii)"; and

(II) by redesignating clause (ii) as subclause (II); and

(iv) by redesignating subparagraph (E) as clause (v);

(F) in subparagraph (F)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) by striking "The Bureau of Customs and Border Protection" and inserting "U.S. Customs and Border Protection";

(II) by striking "subparagraphs (A) and (D)" and inserting "clauses (i) and (iv)"; and

(III) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in the matter preceding subclause (I)—

(aa) by striking "the Bureau of Customs and Border Protection" and inserting "U.S. Customs and Border Protection";

(bb) by striking "subparagraph (A)" each place it appears and inserting "clause (i)"; and

(cc) by striking "subparagraph (D)" and inserting "clause (iv)";

(II) in subclause (I), by striking "clause (i) of subparagraph (A)" and inserting "subclause (I) of clause (i)";

(III) in subclause (II), by striking "clause (ii) of subparagraph (A)" and inserting "subclause (II) of clause (i)";

(IV) in the matter following subclause (II), by striking "subparagraph (E)(i)" and inserting "clause (v)(I)";

(V) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(VI) by redesignating clause (ii) as subclause (II);

(iv) in clause (iii)—

(I) in subclause (I)—

(aa) by striking "paragraph (1)" and inserting "subparagraph (A)"; and

(bb) by striking "subparagraph (A) or (D)" and inserting "clause (i) or (iv)";

(II) in subclause (II), by striking "clause (ii) of this subparagraph" and inserting "subclause (II) of this clause";

(III) in the matter following subclause (II)—

(aa) by striking "the Bureau of Customs and Border Protection" each place it appears and inserting "U.S. Customs and Border Protection"; and

(bb) by striking "subclause (II)" and inserting "item (bb)"; and

(IV) in item (bb)—

(aa) by striking "paragraph (1)" and inserting "subparagraph (A)"; and

(bb) by striking "subparagraph (A) or (D)" and inserting "clause (i) or (iv)"; and

(V) in the matter following item (bb), by striking "paragraph (1)" and inserting "subparagraph (A)";

(VI) by redesignating items (aa) and (bb) as subitems (AA) and (BB), respectively;

(VII) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(VIII) by redesignating clause (iii) as subclause (III); and

(v) by redesignating subparagraph (F) as clause (vi);

(G) in subparagraph (G)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) in the matter preceding subclause (I), by striking "subparagraph (A) or (D)" and inserting "clause (i) or (iv)";

(II) in subclause (II)—

(aa) in item (dd), by striking "under the Bipartisan Trade Promotion Authority Act of 2002" and inserting "with respect to the United States"; and

(bb) by redesignating items (aa) through (dd) as subitems (AA) through (DD), respectively;

(III) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(IV) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in subclause (I), by striking "clause (i)(I)" and inserting "subclause (I)(aa)";

(II) in subclause (II), by striking "clause (i)(II)" and inserting "subclause (I)(bb)";

(III) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(IV) by redesignating clause (ii) as subclause (II); and

(iv) by redesignating subparagraph (G) as clause (vii); and

(H) by striking "(2) APPAREL ARTICLES DESCRIBED.—" and inserting the following:

"(B) APPAREL ARTICLES DESCRIBED.—".

(4) Paragraph (3) is amended—

(A) by redesignating such paragraph as subparagraph (C) and moving it 2 ems to the right;

(B) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)"; and

(C) in the table—

(i) by striking "1.5 percent" and inserting "1.25 percent";

(ii) by striking "1.75 percent" and inserting "1.25 percent"; and

(iii) by striking "2 percent" and inserting "1.25 percent".

(5) The following is added after subparagraph (C), as redesignated by paragraph (4)(A) of this subsection:

"(D) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATIONS.—Any apparel article that qualifies for preferential treatment under paragraph (2), (3), (4), or (5) or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitations under subparagraph (C).".

(b) SPECIAL RULE FOR WOVEN ARTICLES AND CERTAIN KNIT ARTICLES.—Section 213A(b) of the Carribean Basin Economic Recovery Act is amended by striking paragraph (4) and inserting the following:

"(2) SPECIAL RULE FOR WOVEN ARTICLES AND CERTAIN KNIT ARTICLES.—

"(A) SPECIAL RULE FOR ARTICLES OF CHAPTER 62 OF THE HTS.—

"(i) GENERAL RULE.—Any apparel article classifiable under chapter 62 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii) and (iii), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(ii) LIMITATION.—The preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

"(iii) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (B) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (ii).

"(B) SPECIAL RULE FOR CERTAIN ARTICLES OF CHAPTER 61 OF THE HTS.—

"(i) GENERAL RULE.—Any apparel article classifiable under chapter 61 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii), (iii), and (iv), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(ii) EXCLUSIONS.—The preferential treatment described in clause (i) shall not apply to the following:

"(I) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6109.10.00 of the HTS:

"(aa) All white T-shirts, with short hemmed sleeves and hemmed bottom, with crew or round neckline or with V-neck and with a mitered seam at the center of the V, and without pockets, trim, or embroidery.

"(bb) All white singlets, without pockets, trim, or embroidery.

"(cc) Other T-shirts, but not including thermal undershirts.

"(II) T-shirts for men or boys that are classifiable under subheading 6109.90.10.

"(III) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6110.20.20 of the HTS:

"(aa) Sweatshirts.

"(bb) Pullovers, other than sweaters, vests, or garments imported as part of playsuits.

"(IV) Sweatshirts for men or boys, of man-made fibers and containing less than 65 percent by weight of man-made fibers, that are classifiable under subheading 6110.30.30 of the HTS.

"(iii) LIMITATION.—The preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

"(iv) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (A) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (iii).".

(c) SINGLE TRANSFORMATION RULES NOT SUBJECT TO QUANTITATIVE LIMITATIONS.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by striking paragraph (5) and inserting the following:

"(3) APPAREL AND OTHER ARTICLES SUBJECT TO CERTAIN ASSEMBLY RULES.—

"(A) BRASSIERES.—Any apparel article classifiable under subheading 6212.10 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(B) OTHER APPAREL ARTICLES.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

"(i) Any apparel article that is of a type listed in chapter rule 3, 4, or 5 for chapter 61 of the HTS (as such chapter rules are contained in section A of the Annex to Proclamation 8213 of the President of December 20, 2007) as being excluded from the scope of such chapter rule, when such chapter rule is applied to determine whether an apparel article is an originating good for purposes of general note 29(n) to the HTS, except that, for purposes of this clause, reference

in such chapter rules to '6104.12.00' shall be deemed to be a reference to '6104.19.60'.

"(ii)(I) Subject to subclause (II), any apparel article that is of a type listed in chapter rule 3(a), 4(a), or 5(a) for chapter 62 of the HTS, as such chapter rules are contained in paragraph 9 of section A of the Annex to Proclamation 8213 of the President of December 20, 2007.

"(II) Subclause (I) shall not include any apparel article to which subparagraph (A) of this paragraph applies.

"(C) LUGGAGE AND SIMILAR ITEMS.—Any article classifiable under subheading 4202.12, 4202.22, 4202.32 or 4202.92 of the HTS that is wholly assembled in Haiti and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, components, or materials from which the article is made.

"(D) HEADGEAR.—Any article classifiable under heading 6501, 6502, or 6504 of the HTS, or under subheading 6505.90 of the HTS, that is wholly assembled, knit-to-shape, or formed in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(E) CERTAIN SLEEPWEAR.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

"(i) Pajama bottoms and other sleepwear for women and girls, of cotton, that are classifiable under subheading 6208.91.30, or of man-made fibers, that are classifiable under subheading 6208.92.00.

"(ii) Pajama bottoms and other sleepwear for girls, of other textile materials, that are classifiable under subheading 6208.99.20.".

(d) EARNED IMPORT ALLOWANCE RULES.—Section 231A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following new paragraph:

"(4) EARNED IMPORT ALLOWANCE RULE.—

"(A) IN GENERAL.—Apparel articles wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the articles are made, if such apparel articles are accompanied by an earned import allowance certificate that reflects the amount of credits equal to the total square meter equivalents of such

apparel articles, in accordance with the program established under subparagraph (B). For purposes of determining the quantity of square meter equivalents under this subparagraph, the conversion factors listed in 'Correlation: U.S. Textile and Apparel Industry Category System with the Harmonized Tariff Schedule of the United States of America, 2008', or its successor publications, of the United States Department of Commerce, shall apply.

"(B) EARNED IMPORT ALLOWANCE PROGRAM.—

"(i) ESTABLISHMENT.—The Secretary of Commerce shall establish a program to provide earned import allowance certificates to any producer or entity controlling production for purposes of subparagraph (A), based on the elements described in clause (ii).

"(ii) ELEMENTS.—The elements referred to in clause (i) are the following:

"(I) One credit shall be issued to a producer or an entity controlling production for every three square meter equivalents of qualifying woven fabric or qualifying knit fabric that the producer or entity controlling production can demonstrate that it purchased for the manufacture in Haiti of articles like or similar to any article eligible for preferential treatment under subparagraph (A). The Secretary of Commerce shall, if requested by a producer or entity controlling production, create and maintain an account for such producer or entity controlling production, into which such credits shall be deposited.

"(II) Such producer or entity controlling production may redeem credits issued under subclause (I) for earned import allowance certificates reflecting such number of earned credits as the producer or entity may request and has available.

"(III) The Secretary of Commerce may require any textile mill or other entity located in the United States that exports to Haiti qualifying woven fabric or qualifying knit fabric to submit, upon such export or upon request, documentation, such as a Shipper's Export Declaration, to the Secretary of Commerce—

"(aa) verifying that the qualifying woven fabric or qualifying knit fabric was exported to a producer in Haiti or to an entity controlling production; and

"(bb) identifying such producer or entity controlling production, and the quantity and description of qualifying woven fabric or qualifying knit fabric exported to such producer or entity controlling production.

"(IV) The Secretary of Commerce may require that a producer or entity controlling production submit documentation to verify purchases of qualifying woven fabric or qualifying knit fabric.

"(V) The Secretary of Commerce may make available to each person or entity identified in documentation submitted under subclause (III) or

(IV) information contained in such documentation that relates to the purchase of qualifying woven fabric or qualifying knit fabric involving such person or entity.

"(VI) The program under this subparagraph shall be established so as to allow, to the extent feasible, the submission, storage, retrieval, and disclosure of information in electronic format, including information with respect to the earned import allowance certificates required under subparagraph (A)(i).

"(VII) The Secretary of Commerce may reconcile discrepancies in information provided under subclause (III) or (IV) and verify the accuracy of such information.

"(VIII) The Secretary of Commerce shall establish procedures to carry out the program under this subparagraph and may establish additional requirements to carry out this subparagraph. Such additional requirements may include—

"(aa) submissions by textile mills or other entities in the United States documenting exports of yarns wholly formed in the United States to countries described in paragraph (1)(B)(iii) for the manufacture of qualifying knit fabric; and

"(bb) procedures imposed on producers or entities controlling production to allow the Secretary of Commerce to obtain and verify information relating to the production of qualifying knit fabric.

"(iii) QUALIFYING WOVEN FABRIC DEFINED.—For purposes of this subparagraph, the term 'qualifying woven fabric' means fabric wholly formed in the United States from yarns wholly formed in the United States, except that—

"(I) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying woven fabric because the fabric contains nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;

"(II) fabric that would otherwise be ineligible as qualifying woven fabric because the fabric contains yarns not wholly formed in the United States shall not be ineligible as qualifying woven fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric; and

"(III) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying fabric because the fabric contains yarns covered by clause (i) or (ii) of paragraph (5)(A).

"(iv) QUALIFYING KNIT FABRIC DEFINED.—For purposes of this subparagraph, the term 'qualifying knit fabric' means fabric or knit-to-shape components wholly formed or knit-to-shape in any country or any combination of countries described in paragraph

(1)(B)(iii), from yarns wholly formed in the United States, except that—

"(I) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;

"(II) fabric or knit-to-shape components that would otherwise be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns not wholly formed in the United States shall not be ineligible as qualifying knit fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric or knit-to-shape components; and

"(III) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns covered by clause (i) or (ii) of paragraph (5)(A).

"(C) REVIEW BY UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE.—The United States Government Accountability Office shall review the program established under subparagraph (B) annually for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.

"(D) ENFORCEMENT PROVISIONS.—

"(i) FRAUDULENT CLAIMS OF PREFERENCE.—Any person who makes a false claim for preference under the program established under subparagraph (B) shall be subject to any applicable civil or criminal penalty that may be imposed under the customs laws of the United States or under title 18, United States Code.

"(ii) PENALTIES FOR OTHER FRAUDULENT INFORMATION.—The Secretary of Commerce may establish and impose penalties for the submission to the Secretary of Commerce of fraudulent information under the program established under subparagraph (B), other than a claim described in clause (i).".

(e) SHORT SUPPLY RULES .—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following:

"(5) SHORT SUPPLY PROVISION.—

"(A) IN GENERAL.—Any apparel article that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabrics, fabric components, components knit-to-shape, or yarns from which the article is made, if the fabrics, fabric components, components knit-to-shape, or yarns comprising the component that determines the tariff classification of the article are of any of the following:

"(i) Fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for

preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.

"(ii) Fabrics or yarns, to the extent that such fabrics or yarns are designated as not being available in commercial quantities for purposes of—

"(I) section 213(b)(2)(A)(v) of this Act;

"(II) section 112(b)(5) of the African Growth and Opportunity Act;

"(III) clause (i)(III) or (ii) of section 204(b)(3)(B) of the Andean Trade Preference Act; or

"(IV) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement entered into by the United States that is in effect at the time the claim for preferential treatment is made.

"(B) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that—

"(i) any fabric or yarn described in clause (i) of subparagraph (A) was determined to be eligible for preferential treatment, or

"(ii) any fabric or yarn described in clause (ii) of subparagraph (A) was designated as not being available in commercial quantities,

on the basis of fraud, the President is authorized to remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.".

(f) MISCELLANEOUS PROVISIONS.—

(1) RELATIONSHIP TO OTHER PREFERENTIAL PROGRAMS.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following:

"(6) OTHER PREFERENTIAL TREATMENT NOT AFFECTED.—The duty-free treatment provided under this subsection is in addition to any other preferential treatment under this title.".

(2) DEFINITIONS.—Section 213A(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(a)) is amended by adding at the end the following:

"(3) IMPORTED DIRECTLY FROM HAITI OR THE DOMINICAN REPUBLIC.—Articles are 'imported directly from Haiti or the Dominican Republic' if—

"(A) the articles are shipped directly from Haiti or the Dominican Republic into the United States without passing through the territory of any intermediate country; or

"(B) the articles are shipped from Haiti or the Dominican Republic into the United States through the territory of an intermediate country, and—

"(i) the articles in the shipment do not enter into the commerce of any intermediate country, and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

"(ii) the invoices and other documents do not specify the United States as the final destination, but the articles in the shipment—

"(I) remain under the control of the customs authority in the intermediate country;

"(II) do not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail; and

"(III) have not been subjected to operations in the intermediate country other than loading, unloading, or other activities necessary to preserve the articles in good condition.

"(4) KNIT-TO-SHAPE.—A good is 'knit-to-shape' if 50 percent or more of the exterior surface area of the good is formed by major parts that have been knitted or crocheted directly to the shape used in the good, with no consideration being given to patch pockets, appliqués, or the like. Minor cutting, trimming, or sewing of those major parts shall not affect the determination of whether a good is 'knit-to-shape.'

"(5) WHOLLY ASSEMBLED.—A good is 'wholly assembled' in Haiti if all components, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in Haiti. Minor attachments and minor embellishments (for example, appliqués, beads, spangles, embroidery, and buttons) not appreciably affecting the identity of the good, and minor subassemblies (for example, collars, cuffs, plackets, and pockets), shall not affect the determination of whether a good is 'wholly assembled' in Haiti.".

(g) TERMINATION.—Section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a) is amended by adding at the end the following new subsection:

"(g) TERMINATION.—Except as provided in subsection (b)(1), the duty-free treatment provided under this section shall remain in effect until September 30, 2018.".

(h) CONFORMING AMENDMENTS.—Subsection (e)(1) of section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(e)(1)) is amended by striking "the Bureau of Customs and Border Protection" each place it appears and inserting "U.S. Customs and Border Protection".

SEC. 15403. LABOR OMBUDSMAN AND TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.

Section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a), as amended by section 15402 of this Act, is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (5) as paragraph (8):

(B) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6), respectively;

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—. The term "appropriate congressional committees" means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

"(3) CORE LABOR STANDARDS.—The term "core labor standards" means—

"(A) freedom of association;

"(B) the effective recognition of the right to bargain collectively;

"(C) the elimination of all forms of compulsory or forced labor;

"(D) the effective abolition of child labor and a prohibition on the worst forms of child labor; and

"(E) the elimination of discrimination in respect of employment and occupation."; and

(D) by inserting after paragraph (6) (as redesignated) the following new paragraph:

"(7) TAICNAR PROGRAM.—The term 'TAICNAR Program' means the Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program established pursuant to subsection (e).";

(2) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(3) by inserting after subsection (d) the following new subsection:

"(e) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—

"(1) CONTINUED ELIGIBILITY FOR PREFERENCES.—

"(A) PRESIDENTIAL CERTIFICATION OF COMPLIANCE BY HAITI WITH REQUIREMENTS.—Upon the expiration of the 16-month period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, Haiti shall continue to be eligible for the preferential treatment provided under subsection (b) only if the President determines and certifies to the Congress that—

"(i) Haiti has implemented the requirements set forth in paragraphs (2) and (3); and

"(ii) Haiti has agreed to require producers of articles for which duty-free treatment may be requested under subsection (b) to participate in the TAICNAR Program described in paragraph (3) and has developed a system to ensure participation in such program by such producers, including by developing and maintaining the registry described in paragraph (2)(B)(i).

"(B) EXTENSION.—The President may extend the period for compliance by Haiti under subparagraph (A) if the President—

"(i) determines that Haiti has made a good faith effort toward such compliance and has agreed to take additional steps to come into full compliance that are satisfactory to the President; and

"(ii) provides to the appropriate congressional committees, not later than 6 months after the last day of the 16-month period specified in subparagraph (A), and every 6 months thereafter, a report identifying the steps that Haiti has agreed to take to come into full compliance and the progress made over the preceding 6-month period in implementing such steps.

"(C) CONTINUING COMPLIANCE.—

"(i) TERMINATION OF PREFERENTIAL TREATMENT.—If, after making a certification under subparagraph (A), the President determines that Haiti is no longer

meeting the requirements set forth in subparagraph (A), the President shall terminate the preferential treatment provided under subsection (b), unless the President determines, after consulting with the appropriate congressional committees, that meeting such requirements is not practicable because of extraordinary circumstances existing in Haiti when the determination is made.

"(ii) SUBSEQUENT COMPLIANCE.—If the President, after terminating preferential treatment under clause (i), determines that Haiti is meeting the requirements set forth in subparagraph (A), the President shall reinstate the application of preferential treatment under subsection (b).

"(2) LABOR OMBUDSMAN.—

"(A) IN GENERAL.—The requirement under this paragraph is that Haiti has established an independent Labor Ombudsman's Office within the national government that—

"(i) reports directly to the President of Haiti;

"(ii) is headed by a Labor Ombudsman chosen by the President of Haiti, in consultation with Haitian labor unions and industry associations; and

"(iii) is vested with the authority to perform the functions described in subparagraph (B).

"(B) FUNCTIONS.—The functions of the Labor Ombudsman's Office shall include—

"(i) developing and maintaining a registry of producers of articles for which duty-free treatment may be requested under subsection (b), and developing, in consultation and coordination with any other appropriate officials of the Government of Haiti, a system to ensure participation by such producers in the TAICNAR Program described in paragraph (3);

"(ii) overseeing the implementation of the TAICNAR Program described in paragraph (3);

"(iii) receiving and investigating comments from any interested party regarding the conditions described in paragraph (3)(B) in facilities of producers listed in the registry described in clause (i) and, where appropriate, referring such comments or the result of such investigations to the appropriate Haitian authorities, or to the entity operating the TAICNAR Program described in paragraph (3);

"(iv) assisting, in consultation and coordination with any other appropriate Haitian authorities, producers listed in the registry described in clause (i) in meeting the conditions set forth in paragraph (3)(B); and

"(v) coordinating, with the assistance of the entity operating the TAICNAR Program described in paragraph (3), a tripartite committee comprised of appropriate representatives of government agencies, employers, and workers, as well as other relevant interested parties, for the purposes of evaluating progress in implementing the TAICNAR Program described in paragraph (3), and consulting on improving core labor standards and working conditions

in the textile and apparel sector in Haiti, and on other matters of common concern relating to such core labor standards and working conditions.

"(3) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—

"(A) IN GENERAL.—The requirement under this paragraph is that Haiti, in cooperation with the International Labor Organization, has established a Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program meeting the requirements under subparagraph (C)—

"(i) to assess compliance by producers listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and to assist such producers in meeting such conditions; and

"(ii) to provide assistance to improve the capacity of the Government of Haiti—

"(I) to inspect facilities of producers listed in the registry described in paragraph (2)(B)(i); and

"(II) to enforce national labor laws and resolve labor disputes, including through measures described in subparagraph (E).

"(B) CONDITIONS DESCRIBED.—The conditions referred to in subparagraph (A) are—

"(i) compliance with core labor standards; and

"(ii) compliance with the labor laws of Haiti that relate directly to core labor standards and to ensuring acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety.

"(C) REQUIREMENTS.—The requirements for the TAICNAR Program are that the program—

"(i) be operated by the International Labor Organization (or any subdivision, instrumentality, or designee thereof), which prepares the biannual reports described in subparagraph (D);

"(ii) be developed through a participatory process that includes the Labor Ombudsman described in paragraph (2) and appropriate representatives of government agencies, employers, and workers;

"(iii) assess compliance by each producer listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and identify any deficiencies by such producer with respect to meeting such conditions, including by—

"(I) conducting unannounced site visits to manufacturing facilities of the producer;

"(II) conducting confidential interviews separately with workers and management of the facilities of the producer;

"(III) providing to management and workers, and where applicable, worker organizations in the facilities of the producer, on a confidential basis—

"(aa) the results of the assessment carried out under this clause; and

"(bb) specific suggestions for remediating any such deficiencies;

"(iv) assist the producer in remediating any deficiencies identified under clause (iii);

"(v) conduct prompt follow-up site visits to the facilities of the producer to assess progress on remediation of any deficiencies identified under clause (iii); and

"(vi) provide training to workers and management of the producer, and where appropriate, to other persons or entities, to promote compliance with subparagraph (B).

"(D) BIANNUAL REPORT.—The biannual reports referred to in subparagraph (C)(i) are a report, by the entity operating the TAICNAR Program, that is published (and available to the public in a readily accessible manner) on a biannual basis, beginning 6 months after Haiti implements the TAICNAR Program under this paragraph, covering the preceding 6-month period, and that includes the following:

"(i) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having met the conditions under subparagraph (B).

"(ii) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having deficiencies with respect to the conditions under subparagraph (B), and has failed to remedy such deficiencies.

"(iii) For each producer listed under clause (ii)—

"(I) a description of the deficiencies found to exist and the specific suggestions for remediating such deficiencies made by the entity operating the TAICNAR Program;

"(II) a description of the efforts by the producer to remediate the deficiencies, including a description of assistance provided by any entity to assist in such remediation; and

"(III) with respect to deficiencies that have not been remediated, the amount of time that has elapsed since the deficiencies were first identified in a report under this subparagraph.

"(iv) For each producer identified as having deficiencies with respect to the conditions described under subparagraph (B) in a prior report under this subparagraph, a description of the progress made in remediating such deficiencies since the submission of the prior report, and an assessment of whether any aspect of such deficiencies persists.

"(E) CAPACITY BUILDING.—The assistance to the Government of Haiti referred to in subparagraph (A)(ii) shall include programs—

"(i) to review the labor laws and regulations of Haiti and to develop and implement strategies for bringing the laws and regulations into conformity with core labor standards;

"(ii) to develop additional strategies for facilitating protection of core labor standards and providing acceptable conditions of work with respect to minimum

wages, hours of work, and occupational safety and health, including through legal, regulatory, and institutional reform;

"(iii) to increase awareness of worker rights, including under core labor standards and national labor laws;

"(iv) to promote consultation and cooperation between government representatives, employers, worker representatives, and United States importers on matters relating to core labor standards and national labor laws;

"(v) to assist the Labor Ombudsman appointed pursuant to paragraph (2) in establishing and coordinating operation of the committee described in paragraph (2)(B)(v);

"(vi) to assist worker representatives in more fully and effectively advocating on behalf of their members; and

"(vii) to provide on-the-job training and technical assistance to labor inspectors, judicial officers, and other relevant personnel to build their capacity to enforce national labor laws and resolve labor disputes.

"(4) COMPLIANCE WITH ELIGIBILITY CRITERIA.—

"(A) COUNTRY COMPLIANCE WITH WORKER RIGHTS ELIGIBILITY CRITERIA.—In making a determination of whether Haiti is meeting the requirement set forth in subsection (d)(1)(A)(vi) relating to internationally recognized worker rights, the President shall consider the reports produced under paragraph (3)(D).

"(B) PRODUCER ELIGIBILITY.—

"(i) IDENTIFICATION OF PRODUCERS.—Beginning in the second calendar year after the President makes the certification under paragraph (1)(A), the President shall identify on a biennial basis whether a producer listed in the registry described in paragraph (2)(B)(i) has failed to comply with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.

"(ii) ASSISTANCE TO PRODUCERS; WITHDRAWAL, ETC., OF PREFERENTIAL TREATMENT.—For each producer that the President identifies under clause (i), the President shall seek to assist such producer in coming into compliance with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards. If such efforts fail, the President shall withdraw, suspend, or limit the application of preferential treatment under subsection (b) to articles of such producer.

"(iii) REINSTATING PREFERENTIAL TREATMENT.—If the President, after withdrawing, suspending, or limiting the application of preferential treatment under clause (ii) to articles of a producer, determines that such producer is complying with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards, the President shall reinstate the application of preferential

treatment under subsection (b) to the articles of the producer.

"(iv) CONSIDERATION OF REPORTS.—In making the identification under clause (i) and the determination under clause (iii), the President shall consider the reports made available under paragraph (3)(D).

"(5) REPORTS BY THE PRESIDENT.—

"(A) IN GENERAL.—Not later than one year after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, and annually thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this subsection during the preceding 1-year period.

"(B) MATTERS TO BE INCLUDED.—Each report required by subparagraph (A) shall include the following:

"(i) An explanation of the efforts of Haiti, the President, and the International Labor Organization to carry out this subsection.

"(ii) A summary of each report produced under paragraph (3)(D) during the preceding 1-year period and a summary of the findings contained in such report.

"(iii) Identifications made under paragraph (4)(B)(i) and determinations made under paragraph (4)(B)(iii).

"(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection the sum of $10,000,000 for the period beginning on October 1, 2008, and ending on September 30, 2013.".

SEC. 15404. PETITION PROCESS.

Section 213A(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703A(d)) is amended by adding at the end the following new paragraph:

"(4) PETITION PROCESS.—Any interested party may file a request to have the status of Haiti reviewed with respect to the eligibility requirements listed in paragraph (1), and the President shall provide for this purpose the same procedures as those that are provided for reviewing the status of eligible beneficiary developing countries with respect to the designation criteria listed in subsections (b) and (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2642 (b) and (c)).".

SEC. 15405. CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION.

Section 213A(f) of the Caribbean Basin Economic Recovery Act, as redesignated by section 15403(2) of this Act, is amended by adding at the end the following new paragraph:

"(3) LIMITATION ON GOODS SHIPPED FROM THE DOMINICAN REPUBLIC.—

"(A) LIMITATION.—Notwithstanding subsection (a)(5), relating to the definition of 'imported directly from Haiti or the Dominican Republic', articles described in subsection (b) that are shipped from the Dominican Republic, directly or through the territory of an intermediate country, whether or not such articles undergo processing in the Dominican Republic, shall not be considered to be 'imported

directly from Haiti or the Dominican Republic' until the President certifies to the Congress that Haiti and the Dominican Republic have developed procedures to prevent unlawful transshipment of the articles and the use of counterfeit documents related to the importation of the articles into the United States.

"(B) TECHNICAL AND OTHER ASSISTANCE.—The Commissioner responsible for U.S. Customs and Border Protection shall provide technical and other assistance to Haiti and the Dominican Republic to develop expeditiously the procedures described in subparagraph (A).".

SEC. 15406. PRESIDENTIAL PROCLAMATION AUTHORITY.

The President may exercise the authority under section 604 of the Trade Act of 1974 to proclaim such modifications to the Harmonized Tariff Schedule of the United States as may be necessary to carry out this part and the amendments made by this part.

SEC. 15407. REGULATIONS AND PROCEDURES.

The President shall issue such regulations as may be necessary to carry out the amendments made by sections 15402, 15403, and 15404. Regulations to carry out the amendments made by section 15402 shall be issued not later than September 30, 2008. The Secretary of Commerce shall issue such procedures as may be necessary to carry out the amendment made by section 15402(d) not later than September 30, 2008.

SEC. 15408. EXTENSION OF CBTPA.

Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (iii)—

(i) in subclause (II)(cc), by striking "2008" and inserting "2010"; and

(ii) in subclause (IV)(dd), by striking "2008" and inserting "2010"; and

(B) in clause (iv)(II), by striking "6" and inserting "8"; and

(2) in paragraph (5)(D)—

(A) in clause (i), by striking "2008" and inserting "2010"; and

(B) in clause (ii), by striking "108(b)(5)" and inserting "section 108(b)(5)".

SEC. 15409. SENSE OF CONGRESS ON INTERPRETATION OF TEXTILE AND APPAREL PROVISIONS FOR HAITI.

It is the sense of the Congress that the executive branch, particularly the Committee for the Implementation of Textile Agreements (CITA), U.S. Customs and Border Protection of the Department of Homeland Security, and the Department of Commerce, should interpret, implement, and enforce the provisions of section 213A(b) of the Caribbean Basin Economic Recovery Act, as amended by section 15402 of this Act, relating to preferential treatment of textile and apparel articles, broadly in order to expand trade by maximizing opportunities for imports of articles eligible for preferential treatment under such section 213A(b).

SEC. 15410. SENSE OF CONGRESS ON TRADE MISSION TO HAITI.

It is the sense of the Congress that the Secretary of Commerce, in coordination with the United States Trade Representative, the Secretary of State, and the Commissioner responsible for U.S. Customs and Border Protection of the Department of Homeland Security, should lead a trade mission to Haiti, within 6 months after the date of the enactment of this Act, to promote trade between the United States and Haiti, to promote new economic opportunities afforded under the amendments made by section 15402 of this Act, and to help educate United States and Haitian business concerns about such opportunities.

SEC. 15411. SENSE OF CONGRESS ON VISA SYSTEMS.

It is the sense of the Congress that Haiti, and other countries that receive preferences under trade preference programs of the United States that require effective visa systems to prevent transshipment, should ensure that monetary compensation for such visas is not required beyond the costs of processing the visa, including ensuring that such monetary compensation does not violate an applicable system to combat corruption and bribery.

SEC. 15412. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this part and the amendments made by this part shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—The amendments made by section 15402 shall take effect on October 1, 2008, and shall apply to articles entered, or withdrawn from warehouse for consumption, on or after that date.

PART II—MISCELLANEOUS TRADE PROVISIONS

SEC. 15421. UNUSED MERCHANDISE DRAWBACK.

(a) IN GENERAL.—Section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)) is amended by adding at the end the following: "For purposes of subparagraph (A) of this paragraph, wine of the same color having a price variation not to exceed 50 percent between the imported wine and the exported wine shall be deemed to be commercially interchangeable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to claims filed for drawback under section 313(j)(2) of the Tariff Act of 1930 on or after the date of the enactment of this Act.

SEC. 15422. REQUIREMENTS RELATING TO DETERMINATION OF TRANSACTION VALUE OF IMPORTED MERCHANDISE.

(a) REQUIREMENT ON IMPORTERS.—

(1) IN GENERAL.—Pursuant to sections 484 and 485 of the Tariff Act of 1930 (19 U.S.C. 1484 and 1485), the Commissioner responsible for U.S. Customs and Border Protection shall require each importer of merchandise to provide to U.S. Customs and Border Protection at the time of entry of the merchandise the information described in paragraph (2).

(2) INFORMATION REQUIRED.—The information referred to in paragraph (1) is a declaration as to whether the transaction value of the imported merchandise is determined on the basis

of the price paid by the buyer in the first or earlier sale occurring prior to introduction of the merchandise into the United States.

(3) EFFECTIVE DATE.—The requirement to provide information under this subsection shall be effective for the 1-year period beginning 90 days after the date of the enactment of this Act.

(b) REPORT TO INTERNATIONAL TRADE COMMISSION.—

(1) IN GENERAL.—The Commissioner responsible for U.S. Customs and Border Protection shall submit to the United States International Trade Commission on a monthly basis for the 1-year period specified in subsection (a)(3) a report on the information provided by importers under subsection (a)(2) during the preceding month. The report required under this paragraph shall be submitted in a form agreed upon between U.S. Customs and Border Protection and the United States International Trade Commission.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

(A) the number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2);

(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States; and

(C) the transaction value of such imported merchandise.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after the submission of the final report under subsection (b), the United States International Trade Commission shall submit to the appropriate congressional committees a report on the information contained in all reports submitted under subsection (b).

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

(A) the aggregate number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2), including a description of the frequency of the use of such method;

(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States on an aggregate basis, including an analysis of the tariff classification of such imported merchandise on a sectoral basis;

(C) the aggregate transaction value of such imported merchandise, including an analysis of the transaction value of such imported merchandise on a sectoral basis; and

(D) the aggregate transaction value of all merchandise imported into the United States during the 1-year period specified in subsection (a)(3).

(d) SENSE OF CONGRESS REGARDING PROHIBITION ON PROPOSED INTERPRETATION OF THE TERM "SOLD FOR EXPORTATION TO THE UNITED STATES".—

(1) IN GENERAL.—It is the sense of Congress that the Commissioner responsible for U.S. Customs and Border Protection should not implement a change to U.S. Customs and Border

Protection's interpretation (as such interpretation is in effect on the date of the enactment of this Act) of the term "sold for exportation to the United States", as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, before January 1, 2011.

(2) EXCEPTION.—It is the sense of Congress that beginning on January 1, 2011, the Commissioner responsible for U.S. Customs and Border Protection may propose to change or change U.S. Customs and Border Protection's interpretation of the term "sold for exportation to the United States", as described in paragraph (1), only if U.S. Customs and Border Protection—

(A) consults with, and provides notice to, the appropriate congressional committees—

(i) not less than 180 days prior to proposing a change; and

(ii) not less than 90 days prior to publishing a change;

(B) consults with, provides notice to, and takes into consideration views expressed by, the Commercial Operations Advisory Committee—

(i) not less than 120 days prior to proposing a change; and

(ii) not less than 60 days prior to publishing a change; and

(C) receives the explicit approval of the Secretary of the Treasury prior to publishing a change.

(3) CONSIDERATION OF INTERNATIONAL TRADE COMMISSION REPORT.—It is the sense of Congress that prior to publishing a change to U.S. Customs and Border Protection's interpretation (as such interpretation is in effect on the date of the enactment of this Act) of the term "sold for exportation to the United States", as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, the Commissioner responsible for U.S. Customs and Border Protection should take into consideration the matters included in the report prepared by the United States International Trade Commission under subsection (c).

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) COMMERCIAL OPERATIONS ADVISORY COMMITTEE.—The term "Commercial Operations Advisory Committee" means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) or any successor committee.

(3) IMPORTER.—The term "importer" means one of the parties qualifying as an "importer of record" under section 484(a)(2)(B) in the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)(B)).

(4) TRANSACTION VALUE OF THE IMPORTED MERCHANDISE.—The term "transaction value of the imported merchandise" has

the meaning described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)).

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.