

Calendar No. _____

110TH CONGRESS
1ST SESSION**S.** _____

To provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. HARKIN from the Committee on Agriculture, Nutrition, and Forestry reported the following original bill; which was read twice and placed on the calendar

A BILL

To provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Food and Energy Security Act of 2007”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of Secretary.

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TITLE I—PRODUCER INCOME PROTECTION PROGRAMS

Sec. 1001. Definitions.

Subtitle A—Traditional Payments and Loans

PART I—DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS

- Sec. 1101. Base acres and payment acres for a farm.
- Sec. 1102. Payment yields.
- Sec. 1103. Availability of direct payments.
- Sec. 1104. Availability of counter-cyclical payments.
- Sec. 1105. Producer agreement required as condition of provision of direct payments and counter-cyclical payments.
- Sec. 1106. Planting flexibility.
- Sec. 1107. Special rule for long grain and medium grain rice.
- Sec. 1108. Period of effectiveness.

PART II—MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS

- Sec. 1201. Availability of nonrecourse marketing assistance loans for loan commodities.
- Sec. 1202. Loan rates for nonrecourse marketing assistance loans.
- Sec. 1203. Term of loans.
- Sec. 1204. Repayment of loans.
- Sec. 1205. Loan deficiency payments.
- Sec. 1206. Payments in lieu of loan deficiency payments for grazed acreage.
- Sec. 1207. Special marketing loan provisions for upland cotton.
- Sec. 1208. Special competitive provisions for extra long staple cotton.
- Sec. 1209. Availability of recourse loans for high moisture feed grains and seed cotton.
- Sec. 1210. Adjustments of loans.

PART III—PEANUTS

- Sec. 1301. Definitions.
- Sec. 1302. Base acres for peanuts for a farm.
- Sec. 1303. Availability of direct payments for peanuts.
- Sec. 1304. Availability of counter-cyclical payments for peanuts.
- Sec. 1305. Producer agreement required as condition on provision of direct payments and counter-cyclical payments.
- Sec. 1306. Planting flexibility.
- Sec. 1307. Marketing assistance loans and loan deficiency payments for peanuts.
- Sec. 1308. Adjustments of loans.

Subtitle B—Average Crop Revenue Program

- Sec. 1401. Availability of average crop revenue payments.
- Sec. 1402. Producer agreement as condition of average crop revenue payments.
- Sec. 1403. Planting flexibility.
- Sec. 1404. Impact on crop insurance program.

Subtitle C—Sugar

- Sec. 1501. Sugar program.
- Sec. 1502. Storage facility loans.

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- Sec. 1503. Commodity Credit Corporation storage payments.
- Sec. 1504. Flexible marketing allotments for sugar.
- Sec. 1505. Sense of the Senate regarding NAFTA sugar coordination.

Subtitle D—Dairy

- Sec. 1601. Dairy product price support program.
- Sec. 1602. National dairy market loss payments.
- Sec. 1603. Dairy export incentive and dairy indemnity programs.
- Sec. 1604. Funding of dairy promotion and research program.
- Sec. 1605. Revision of Federal marketing order amendment procedures.
- Sec. 1606. Dairy forward pricing program.
- Sec. 1607. Report on Department of Agriculture reporting procedures for non-fat dry milk.
- Sec. 1608. Federal Milk Marketing Order Review Commission.

Subtitle E—Administration

- Sec. 1701. Administration generally.
- Sec. 1702. Suspension of permanent price support authority.
- Sec. 1703. Payment limitations.
- Sec. 1704. Adjusted gross income limitation.
- Sec. 1705. Availability of quality incentive payments for certain producers.
- Sec. 1706. Hard white wheat development program.
- Sec. 1707. Durum wheat quality program.
- Sec. 1708. Storage facility loans.
- Sec. 1709. Personal liability of producers for deficiencies.
- Sec. 1710. Extension of existing administrative authority regarding loans.
- Sec. 1711. Assignment of payments.
- Sec. 1712. Cotton classification services.
- Sec. 1713. Designation of States for cotton research and promotion.
- Sec. 1714. Government publication of cotton price forecasts.
- Sec. 1715. State, county, and area committees.
- Sec. 1716. Prohibition on charging certain fees.
- Sec. 1717. Signature authority.
- Sec. 1718. Modernization of Farm Service Agency.
- Sec. 1719. Geospatial systems.
- Sec. 1720. Leasing office space.
- Sec. 1721. Repeals.

Subtitle F—Specialty Crop Programs

- Sec. 1801. Definitions.

PART I—MARKETING, INFORMATION, AND EDUCATION

- Sec. 1811. Fruit and vegetable market news allocation.
- Sec. 1812. Farmers' market promotion program.
- Sec. 1813. Food safety initiatives.
- Sec. 1814. Census of specialty crops.

PART II—ORGANIC PRODUCTION

- Sec. 1821. Organic data collection and price reporting.
- Sec. 1822. Exemption of certified organic products from assessments.
- Sec. 1823. National Organic Certification Cost Share Program.
- Sec. 1824. National organic program.

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PART III—INTERNATIONAL TRADE

- Sec. 1831. Foreign market access study and strategy plan.
- Sec. 1832. Market access program.
- Sec. 1833. Technical assistance for specialty crops.
- Sec. 1834. Consultations on sanitary and phytosanitary restrictions for fruits and vegetables.

PART IV—SPECIALTY CROPS COMPETITIVENESS

- Sec. 1841. Specialty crop block grants.
- Sec. 1842. Grant program to improve movement of specialty crops.
- Sec. 1843. Healthy Food Enterprise Development Center.

PART V—MISCELLANEOUS

- Sec. 1851. Clean plant network.
- Sec. 1852. Market loss assistance for asparagus producers.
- Sec. 1853. Mushroom promotion, research, and consumer information.
- Sec. 1854. National Honey Board.
- Sec. 1855. Identification of honey.
- Sec. 1856. Expedited marketing order for Hass avocados for grades and standards and other purposes.

Subtitle G—Risk Management

- Sec. 1901. Definition of organic crop.
- Sec. 1902. General powers.
- Sec. 1903. Reduction in loss ratio.
- Sec. 1904. Controlled business insurance.
- Sec. 1905. Administrative fee.
- Sec. 1906. Time for payment.
- Sec. 1907. Surcharge prohibition.
- Sec. 1908. Premium reduction plan.
- Sec. 1909. Denial of claims.
- Sec. 1910. Measurement of farm-stored commodities.
- Sec. 1911. Reimbursement rate.
- Sec. 1912. Renegotiation of standard reinsurance agreement.
- Sec. 1913. Change in due date for Corporation payments for underwriting gains.
- Sec. 1914. Access to data mining information.
- Sec. 1915. Producer eligibility.
- Sec. 1916. Contracts for additional crop policies.
- Sec. 1917. Research and development.
- Sec. 1918. Funding from insurance fund.
- Sec. 1919. Camelina pilot program.
- Sec. 1920. Crop insurance mediation.
- Sec. 1921. Drought coverage for aquaculture under noninsured crop assistance program.
- Sec. 1922. Increase in service fees for noninsured crop assistance program.
- Sec. 1923. Determination of certain sweet potato production.
- Sec. 1924. Perennial crop report.

1 **SEC. 2. DEFINITION OF SECRETARY.**

2 In this Act, the term “Secretary” means the Sec-
3 retary of Agriculture.

4 **TITLE I—PRODUCER INCOME**
5 **PROTECTION PROGRAMS**

6 **SEC. 1001. DEFINITIONS.**

7 In this title (other than part III of subtitle A):

8 (1) **AVERAGE CROP REVENUE PAYMENT.**—The
9 term “average crop revenue payment” means a pay-
10 ment made to producers on a farm under section
11 1401.

12 (2) **BASE ACRES.**—The term “base acres”, with
13 respect to a covered commodity on a farm, means
14 the number of acres established under section 1101
15 of the Farm Security and Rural Investment Act of
16 2002 (7 U.S.C. 7911) as in effect on the day before
17 the date of enactment of this Act, subject to any ad-
18 justment under section 1101 of this Act.

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

22 (4) **COVERED COMMODITY.**—The term “covered
23 commodity” means wheat, corn, grain sorghum, bar-
24 ley, oats, upland cotton, long grain rice, medium
25 grain rice, pulse crops, soybeans, and other oilseeds.

1 (5) DIRECT PAYMENT.—The term “direct pay-
2 ment” means a payment made to producers on a
3 farm under section 1103.

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

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

12 (A) is produced from pure strain varieties
13 of the Barbadosense species or any hybrid of the
14 species, or other similar types of extra long sta-
15 ple cotton, designated by the Secretary, having
16 characteristics needed for various end uses for
17 which United States upland cotton is not suit-
18 able and grown in irrigated cotton-growing re-
19 gions of the United States designated by the
20 Secretary or other areas designated by the Sec-
21 retary as suitable for the production of the vari-
22 eties or types; and

23 (B) is ginned on a roller-type gin or, if au-
24 thorized by the Secretary, ginned on another
25 type gin for experimental purposes.

1 (8) LOAN COMMODITY.—The term “loan com-
2 modity” means wheat, corn, grain sorghum, barley,
3 oats, upland cotton, extra long staple cotton, long
4 grain rice, medium grain rice, soybeans, other oil-
5 seeds, wool, mohair, honey, dry peas, lentils, small
6 chickpeas, and large chickpeas.

7 (9) MEDIUM GRAIN RICE.—The term “medium
8 grain rice” includes short grain rice.

9 (10) OTHER OILSEED.—The term “other oil-
10 seed” means a crop of sunflower seed, rapeseed,
11 canola, safflower, flaxseed, mustard seed, crambe,
12 sesame seed, camelina, or any oilseed designated by
13 the Secretary.

14 (11) PAYMENT ACRES.—The term “payment
15 acres” means, in the case of direct payments and
16 counter-cyclical payments, 85 percent of the base
17 acres of a covered commodity on a farm on which
18 direct payments or counter-cyclical payments are
19 made.

20 (12) PAYMENT YIELD.—The term “payment
21 yield” means the yield established for direct pay-
22 ments and counter-cyclical payments under section
23 1102 of the Farm Security and Rural Investment
24 Act of 2002 (7 U.S.C. 7912) as in effect on the day
25 before the date of enactment of this Act, or under

1 section 1102 of this Act, for a farm for a covered
2 commodity.

3 (13) PRODUCER.—

4 (A) IN GENERAL.—The term “producer”
5 means an owner, operator, landlord, tenant, or
6 sharecropper that shares in the risk of pro-
7 ducing a crop and is entitled to share in the
8 crop available for marketing from the farm, or
9 would have shared had the crop been produced.

10 (B) HYBRID SEED.—In determining
11 whether a grower of hybrid seed is a producer,
12 the Secretary shall—

13 (i) not take into consideration the ex-
14 istence of a hybrid seed contract; and

15 (ii) ensure that program requirements
16 do not adversely affect the ability of the
17 grower to receive a payment under this
18 title.

19 (14) PULSE CROP.—The term “pulse crop”
20 means dry peas, lentils, small chickpeas, and large
21 chickpeas.

22 (15) STATE.—The term “State” means—

23 (A) a State;

24 (B) the District of Columbia;

1 (C) the Commonwealth of Puerto Rico;
2 and

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

5 (16) TARGET PRICE.—The term “target price”
6 means the price per bushel, pound, or hundred-
7 weight (or other appropriate unit) of a covered com-
8 modity used to determine the payment rate for
9 counter-cyclical payments.

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

13 **Subtitle A—Traditional Payments** 14 **and Loans**

15 **PART I—DIRECT PAYMENTS AND COUNTER-** 16 **CYCLICAL PAYMENTS**

17 **SEC. 1101. BASE ACRES AND PAYMENT ACRES FOR A FARM.**

18 (a) ADJUSTMENT OF BASE ACRES.—

19 (1) IN GENERAL.—The Secretary shall provide
20 for an adjustment, as appropriate, in the base acres
21 for covered commodities for a farm whenever the fol-
22 lowing circumstances occurs:

23 (A) A conservation reserve contract en-
24 tered into under section 1231 of the Food Secu-

1 rity Act of 1985 (16 U.S.C. 3831) with respect
2 to the farm expires or is voluntarily terminated.

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

6 (C) The producer has eligible pulse crop or
7 camelina acreage.

8 (D) The producer has eligible oilseed acre-
9 age as the result of the Secretary designating
10 additional oilseeds.

11 (2) SPECIAL CONSERVATION RESERVE ACREAGE
12 PAYMENT RULES.—For the crop year in which a
13 base acres adjustment under subparagraph (A) or
14 (B) of paragraph (1) is first made, the owner of the
15 farm shall elect to receive either direct payments
16 and counter-cyclical payments with respect to the
17 acreage added to the farm under this subsection or
18 a prorated payment under the conservation reserve
19 contract, but not both.

20 (b) PREVENTION OF EXCESS BASE ACRES.—

21 (1) REQUIRED REDUCTION.—If the sum of the
22 base acres for a farm, together with the acreage de-
23 scribed in paragraph (2) exceeds the actual cropland
24 acreage of the farm, the Secretary shall reduce the
25 base acres for 1 or more covered commodities for the

1 farm or the base acres for peanuts for the farm so
2 that the sum of the base acres and acreage described
3 in paragraph (2) does not exceed the actual cropland
4 acreage of the farm.

5 (2) OTHER ACREAGE.—For purposes of para-
6 graph (1), the Secretary shall include the following:

7 (A) Any base acres for peanuts for the
8 farm.

9 (B) Any acreage on the farm enrolled in
10 the conservation reserve program or wetlands
11 reserve program under chapter 1 of subtitle D
12 of title XII of the Food Security Act of 1985
13 (16 U.S.C. 3830 et seq.).

14 (C) Any other acreage on the farm enrolled
15 in a Federal conservation program for which
16 payments are made in exchange for not pro-
17 ducing an agricultural commodity on the acre-
18 age.

19 (D) Any eligible pulse crop or camelina
20 acreage, which shall be determined in the same
21 manner as eligible oilseed acreage under section
22 1101(a)(2) of the Farm Security and Rural In-
23 vestment Act of 2002 (7 U.S.C. 7911(a)(2)).

24 (E) If the Secretary designates additional
25 oilseeds, any eligible oilseed acreage, which shall

1 be determined in the same manner as eligible
2 oilseed acreage under section 1101(a)(2) of the
3 Farm Security and Rural Investment Act of
4 2002 (7 U.S.C. 7911(a)(2)).

5 (3) SELECTION OF ACRES.—The Secretary shall
6 give the owner of the farm the opportunity to select
7 the base acres for a covered commodity or the base
8 acres for peanuts for the farm against which the re-
9 duction required by paragraph (1) will be made.

10 (4) EXCEPTION FOR DOUBLE-CROPPED ACRE-
11 AGE.—In applying paragraph (1), the Secretary
12 shall make an exception in the case of double crop-
13 ping, as determined by the Secretary.

14 (5) COORDINATED APPLICATION OF REQUIRE-
15 MENTS.—The Secretary shall take into account sec-
16 tion 1302(b) when applying the requirements of this
17 subsection.

18 (c) PERMANENT REDUCTION IN BASE ACRES.—

19 (1) IN GENERAL.—The owner of a farm may
20 reduce, at any time, the base acres for any covered
21 commodity for the farm.

22 (2) ADMINISTRATION.—The reduction shall be
23 permanent and made in the manner prescribed by
24 the Secretary.

1 **SEC. 1102. PAYMENT YIELDS.**

2 (a) ESTABLISHMENT AND PURPOSE.—For the pur-
3 pose of making direct payments and counter-cyclical pay-
4 ments under this subtitle, the Secretary shall provide for
5 the establishment of a yield for each farm for any des-
6 ignated oilseed, camelina, or eligible pulse crop for which
7 a payment yield was not established under section 1102
8 of the Farm Security and Rural Investment Act of 2002
9 (7 U.S.C. 7912) in accordance with this section.

10 (b) PAYMENT YIELDS FOR DESIGNATED OILSEEDS,
11 CAMELINA, AND ELIGIBLE PULSE CROPS.—

12 (1) DETERMINATION OF AVERAGE YIELD.—In
13 the case of designated oilseeds, camelina, and eligi-
14 ble pulse crops, the Secretary shall determine the av-
15 erage yield per planted acre for the designated oil-
16 seed, camelina, or pulse crop on a farm for the 1998
17 through 2001 crop years, excluding any crop year in
18 which the acreage planted to the designated oilseed,
19 camelina, or pulse crop was zero.

20 (2) ADJUSTMENT FOR PAYMENT YIELD.—

21 (A) IN GENERAL.—The payment yield for
22 a farm for a designated oilseed, camelina, or el-
23 igible pulse crop shall be equal to the product
24 of the following:

1 (i) The average yield for the des-
2 ignated oilseed, camelina, or pulse crop de-
3 termined under paragraph (1).

4 (ii) The ratio resulting from dividing
5 the national average yield for the des-
6 ignated oilseed, camelina, or pulse crop for
7 the 1981 through 1985 crops by the na-
8 tional average yield for the designated oil-
9 seed, camelina, or pulse crop for the 1998
10 through 2001 crops.

11 (B) NO NATIONAL AVERAGE YIELD INFOR-
12 MATION AVAILABLE.—To the extent that na-
13 tional average yield information for a des-
14 ignated oilseed, camelina, or pulse crop is not
15 available, the Secretary shall use such informa-
16 tion as the Secretary determines to be fair and
17 equitable to establish a national average yield
18 under this section.

19 (3) USE OF PARTIAL COUNTY AVERAGE
20 YIELD.—If the yield per planted acre for a crop of
21 a designated oilseed, camelina, or pulse crop for a
22 farm for any of the 1998 through 2001 crop years
23 was less than 75 percent of the county yield for that
24 designated oilseed, camelina, or pulse crop, the Sec-
25 retary shall assign a yield for that crop year equal

1 to 75 percent of the county yield for the purpose of
2 determining the average under paragraph (1).

3 (4) NO HISTORIC YIELD DATA AVAILABLE.—In
4 the case of establishing yields for designated oil-
5 seeds, camelina, and eligible pulse crops, if historic
6 yield data is not available, the Secretary shall use
7 the ratio for dry peas calculated under paragraph
8 (2)(A)(ii) in determining the yields for designated
9 oilseeds, camelina, and eligible pulse crops, as deter-
10 mined to be fair and equitable by the Secretary.

11 **SEC. 1103. AVAILABILITY OF DIRECT PAYMENTS.**

12 (a) PAYMENT REQUIRED.—Except as provided in
13 section 1401, for each of the 2008 through 2012 crop
14 years of each covered commodity (other than pulse crops),
15 the Secretary shall make direct payments to producers on
16 farms for which payment yields and base acres are estab-
17 lished.

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

- 21 (1) Wheat, \$0.52 per bushel.
- 22 (2) Corn, \$0.28 per bushel.
- 23 (3) Grain sorghum, \$0.35 per bushel.
- 24 (4) Barley, \$0.24 per bushel.
- 25 (5) Oats, \$0.024 per bushel.

1 (6) Upland cotton, \$0.0667 per pound.

2 (7) Long grain rice, \$2.35 per hundredweight.

3 (8) Medium grain rice, \$2.35 per hundred-
4 weight.

5 (9) Soybeans, \$0.44 per bushel.

6 (10) Other oilseeds, \$0.80 per hundredweight.

7 (c) PAYMENT AMOUNT.—The amount of the direct
8 payment to be paid to the producers on a farm for a cov-
9 ered commodity for a crop year shall be equal to the prod-
10 uct of the following:

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

13 (2) The payment acres of the covered com-
14 modity on the farm.

15 (3) The payment yield for the covered com-
16 modity for the farm.

17 (d) TIME FOR PAYMENT.—

18 (1) IN GENERAL.—In the case of each of the
19 2008 through 2012 crop years, the Secretary shall
20 make direct payments under this section not earlier
21 than October 1 of the calendar year in which the
22 crop of the covered commodity is harvested.

23 (2) ADVANCE PAYMENTS.—

24 (A) OPTION.—At the option of the pro-
25 ducers on a farm, the Secretary shall pay in ad-

1 vance up to 22 percent of the direct payment
2 for a covered commodity for any of the 2008
3 through 2011 crop years to the producers on a
4 farm.

5 (B) MONTH.—

6 (i) SELECTION.—Subject to clauses
7 (ii) and (iii), the producers on a farm shall
8 select the month during which the advance
9 payment for a crop year will be made.

10 (ii) OPTIONS.—The month selected
11 may be any month during the period—

12 (I) beginning on December 1 of
13 the calendar year before the calendar
14 year in which the crop of the covered
15 commodity is harvested; and

16 (II) ending during the month
17 within which the direct payment
18 would otherwise be made.

19 (iii) CHANGE.—The producers on a
20 farm may change the selected month for a
21 subsequent advance payment by providing
22 advance notice to the Secretary.

23 (3) REPAYMENT OF ADVANCE PAYMENTS.—If a
24 producer on a farm that receives an advance direct
25 payment for a crop year ceases to be a producer on

1 that farm, or the extent to which the producer
2 shares in the risk of producing a crop changes, be-
3 fore the date the remainder of the direct payment is
4 made, the producer shall be responsible for repaying
5 the Secretary the applicable amount of the advance
6 payment, as determined by the Secretary.

7 **SEC. 1104. AVAILABILITY OF COUNTER-CYCLICAL PAY-**
8 **MENTS.**

9 (a) PAYMENT REQUIRED.—Subject to sections 1107
10 and 1401, for each of the 2008 through 2012 crop years
11 for each covered commodity, the Secretary shall make
12 counter-cyclical payments to producers on farms for which
13 payment yields and base acres are established with respect
14 to the covered commodity if the Secretary determines that
15 the effective price for the covered commodity is less than
16 the target price for the covered commodity.

17 (b) EFFECTIVE PRICE.—

18 (1) COVERED COMMODITIES OTHER THAN
19 RICE.—Except as provided in paragraph (2), for
20 purposes of subsection (a), the effective price for a
21 covered commodity is equal to the sum of the fol-
22 lowing:

23 (A) The higher of the following:

24 (i) The national average market price
25 received by producers during the 12-month

1 marketing year for the covered commodity,
2 as determined by the Secretary.

3 (ii) The national average loan rate for
4 a marketing assistance loan for the covered
5 commodity in effect for the applicable pe-
6 riod under part II.

7 (B) The payment rate in effect for the cov-
8 ered commodity under section 1103 for the pur-
9 pose of making direct payments with respect to
10 the covered commodity.

11 (2) RICE.—In the case of long grain rice and
12 medium grain rice, for purposes of subsection (a),
13 the effective price for each type or class of rice is
14 equal to the sum of the following:

15 (A) The higher of the following:

16 (i) The national average market price
17 received by producers during the 12-month
18 marketing year for the type or class of
19 rice, as determined by the Secretary.

20 (ii) The national average loan rate for
21 a marketing assistance loan for the type or
22 class of rice in effect for the applicable pe-
23 riod under part II.

24 (B) The payment rate in effect for the
25 type or class of rice under section 1103 for the

1 purpose of making direct payments with respect
2 to the type or class of rice.

3 (c) TARGET PRICE.—

4 (1) IN GENERAL.—For purposes of each of the
5 2008 through 2012 crop years, the target prices for
6 covered commodities shall be as follows:

7 (A) Wheat, \$4.20 per bushel.

8 (B) Corn, \$2.63 per bushel.

9 (C) Grain sorghum, \$2.63 per bushel.

10 (D) Barley, \$2.63 per bushel.

11 (E) Oats, \$1.83 per bushel.

12 (F) Upland cotton, \$0.7225 per pound.

13 (G) Long grain rice, \$10.50 per hundred-
14 weight.

15 (H) Medium grain rice, \$10.50 per hun-
16 dredweight.

17 (I) Soybeans, \$6.00 per bushel.

18 (J) Other oilseeds, \$12.74 per hundred-
19 weight.

20 (K) Dry peas, \$8.33 per hundredweight.

21 (L) Lentils, \$12.82 per hundredweight.

22 (M) Small chickpeas, \$10.36 per hundred-
23 weight.

24 (N) Large chickpeas, \$12.82 per hundred-
25 weight.

1 (2) SEPARATE TARGET PRICE.—The Secretary
2 may not establish a target price for a covered com-
3 modity that is different from the target price speci-
4 fied in paragraph (1) for the covered commodity.

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

9 (1) the target price for the covered commodity;
10 and

11 (2) the effective price determined under sub-
12 section (b) for the covered commodity.

13 (e) PAYMENT AMOUNT.—If counter-cyclical pay-
14 ments are required to be paid for any of the 2008 through
15 2012 crop years of a covered commodity, the amount of
16 the counter-cyclical payment to be paid to the producers
17 on a farm for that crop year shall be equal to the product
18 of the following:

19 (1) The payment rate specified in subsection
20 (d).

21 (2) The payment acres of the covered com-
22 modity on the farm.

23 (3) The payment yield for the covered com-
24 modity for the farm.

25 (f) TIME FOR PAYMENTS.—

1 (1) GENERAL RULE.—If the Secretary deter-
2 mines under subsection (a) that counter-cyclical pay-
3 ments are required to be made under this section for
4 the crop of a covered commodity, the Secretary shall
5 make the counter-cyclical payments for the crop be-
6 ginning October 1, or as soon as practicable there-
7 after, after the end of the applicable marketing year
8 for the covered commodity.

9 (2) AVAILABILITY OF PARTIAL PAYMENTS.—

10 (A) IN GENERAL.—If, before the end of
11 the 12-month marketing year for a covered
12 commodity, the Secretary estimates that
13 counter-cyclical payments will be required for
14 the crop of the covered commodity, the Sec-
15 retary shall give producers on a farm the option
16 to receive partial payments of the counter-cycli-
17 cal payment projected to be made for that crop
18 of the covered commodity.

19 (B) ELECTION.—

20 (i) IN GENERAL.—The Secretary shall
21 allow producers on a farm to make an elec-
22 tion to receive partial payments for a cov-
23 ered commodity under subparagraph (A)
24 at any time but not later than 30 days

1 prior to the end of the marketing year for
2 that covered commodity.

3 (ii) DATE OF ISSUANCE.—The Sec-
4 retary shall issue the partial payment after
5 the date of an announcement by the Sec-
6 retary but not later than 30 days prior to
7 the end of the marketing year.

8 (3) TIME FOR PARTIAL PAYMENTS.—When the
9 Secretary makes partial payments for a covered
10 commodity for any of the 2008 through 2010 crop
11 years—

12 (A) the first partial payment shall be made
13 after completion of the first 180 days of the
14 marketing year for the covered commodity; and

15 (B) the final partial payment shall be
16 made beginning October 1, or as soon as prac-
17 ticable thereafter, after the end of the applica-
18 ble marketing year for the covered commodity.

19 (4) AMOUNT OF PARTIAL PAYMENT.—

20 (A) FIRST PARTIAL PAYMENT.—For each
21 of the 2008 through 2010 crops of a covered
22 commodity, the first partial payment under
23 paragraph (3) to the producers on a farm may
24 not exceed 40 percent of the projected counter-

1 cyclical payment for the covered commodity for
2 the crop year, as determined by the Secretary.

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

6 (i) the actual counter-cyclical payment
7 to be made to the producers for the cov-
8 ered commodity for that crop year; and

9 (ii) the amount of the partial payment
10 made to the producers under subparagraph
11 (A).

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

19 **SEC. 1105. PRODUCER AGREEMENT REQUIRED AS CONDI-**
20 **TION OF PROVISION OF DIRECT PAYMENTS**
21 **AND COUNTER-CYCLICAL PAYMENTS.**

22 (a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

23 (1) REQUIREMENTS.—Before the producers on
24 a farm may receive direct payments or counter-cycli-
25 cal payments with respect to the farm, the producers

1 shall agree, during the crop year for which the pay-
2 ments are made and in exchange for the payments—

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

7 (B) to comply with applicable wetland pro-
8 tection requirements under subtitle C of title
9 XII of that Act (16 U.S.C. 3821 et seq.);

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

12 (D) to use the land on the farm, in a
13 quantity equal to the attributable base acres for
14 the farm and any base acres for peanuts for the
15 farm under part III, for an agricultural or con-
16 serving use, and not for a nonagricultural com-
17 mercial, industrial, or residential use (including
18 land subdivided and developed into residential
19 units or other nonfarming uses, or that is oth-
20 erwise no longer intended to be used in conjunc-
21 tion with a farming operation), as determined
22 by the Secretary; and

23 (E) to effectively control noxious weeds
24 and otherwise maintain the land in accordance
25 with sound agricultural practices, as determined

1 by the Secretary, if the agricultural or con-
2 serving use involves the noncultivation of any
3 portion of the land referred to in subparagraph
4 (D).

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

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

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

16 (1) TERMINATION.—

17 (A) IN GENERAL.—Except as provided in
18 paragraph (2), a transfer of (or change in) the
19 interest of the producers on a farm in base
20 acres for which direct payments or counter-cy-
21 clical payments are made shall result in the ter-
22 mination of the payments with respect to the
23 base acres, unless the transferee or owner of
24 the acreage agrees to assume all obligations
25 under subsection (a).

1 (B) EFFECTIVE DATE.—The termination
2 shall take effect on the date determined by the
3 Secretary.

4 (2) EXCEPTION.—If a producer entitled to a di-
5 rect payment or counter-cyclical payment dies, be-
6 comes incompetent, or is otherwise unable to receive
7 the payment, the Secretary shall make the payment,
8 in accordance with rules issued by the Secretary.

9 (c) ACREAGE REPORTS.—

10 (1) IN GENERAL.—As a condition on the receipt
11 of any benefits under this part or part II, the Sec-
12 retary shall require producers on a farm to submit
13 to the Secretary annual acreage reports with respect
14 to all cropland on the farm.

15 (2) PENALTIES.—No penalty with respect to
16 benefits under this part or part II shall be assessed
17 against the producers on a farm for an inaccurate
18 acreage report unless the producers on the farm
19 knowingly and willfully falsified the acreage report.

20 (d) TENANTS AND SHARECROPPERS.—In carrying
21 out this subtitle, the Secretary shall provide adequate safe-
22 guards to protect the interests of tenants and share-
23 croppers.

24 (e) SHARING OF PAYMENTS.—The Secretary shall
25 provide for the sharing of direct payments and counter-

1 cyclical payments among the producers on a farm on a
2 fair and equitable basis.

3 **SEC. 1106. PLANTING FLEXIBILITY.**

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

7 (b) LIMITATIONS REGARDING CERTAIN COMMOD-
8 ITIES.—

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

13 (2) TREATMENT OF TREES AND OTHER
14 PERENNIALS.—The planting of an agricultural com-
15 modity specified in paragraph (3) that is produced
16 on a tree or other perennial plant shall be prohibited
17 on base acres.

18 (3) COVERED AGRICULTURAL COMMODITIES.—
19 Paragraphs (1) and (2) apply to the following agri-
20 cultural commodities:

21 (A) Fruits.

22 (B) Vegetables (other than mung beans
23 and pulse crops).

24 (C) Wild rice.

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

4 (1) in any region in which there is a history of
5 double-cropping of covered commodities with agricul-
6 tural commodities specified in subsection (b)(3), as
7 determined by the Secretary, in which case the dou-
8 ble-cropping shall be permitted;

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

15 (3) by the producers on a farm that the Sec-
16 retary determines has an established planting his-
17 tory of a specific agricultural commodity specified in
18 subsection (b)(3), except that—

19 (A) the quantity planted may not exceed
20 the average annual planting history of such ag-
21 ricultural commodity by the producers on the
22 farm in the 1991 through 1995 or 1998
23 through 2001 crop years (excluding any crop
24 year in which no plantings were made), as de-
25 termined by the Secretary; and

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

4 (d) PLANTING TRANSFERABILITY PILOT PROJECT.—

5 (1) PILOT PROJECT AUTHORIZED.—In addition
6 to the exceptions provided in subsection (c), the Sec-
7 retary shall carry out a pilot project in the State of
8 Indiana under which paragraphs (1) and (2) of sub-
9 section (b) shall not limit the planting of tomatoes
10 grown for processing on up to 10,000 base acres
11 during each of the 2008 through 2012 crop years.

12 (2) CONTRACT AND MANAGEMENT REQUIRE-
13 MENTS.—To be eligible for selection to participate in
14 the pilot project, the producers on a farm shall—

15 (A) have entered into a contract to
16 produce tomatoes for processing; and

17 (B) agree to produce the tomatoes as part
18 of a program of crop rotation on the farm to
19 achieve agronomic and pest and disease man-
20 agement benefits.

21 (3) TEMPORARY REDUCTION IN BASE ACRES.—

22 The base acres on a farm participating in the pilot
23 program for a crop year shall be reduced by an acre
24 for each acre planted to tomatoes under the pilot
25 program.

1 (4) RECALCULATION OF BASE ACRES.—

2 (A) IN GENERAL.—If the Secretary recal-
3 culates base acres for a farm while the farm is
4 included in the pilot project, the planting and
5 production of tomatoes on base acres for which
6 a temporary reduction was made under this sec-
7 tion shall be considered to be the same as the
8 planting and production of a covered com-
9 modity.

10 (B) PROHIBITION.—Nothing in this para-
11 graph provides authority for the Secretary to
12 recalculate base acres for a farm.

13 **SEC. 1107. SPECIAL RULE FOR LONG GRAIN AND MEDIUM**
14 **GRAIN RICE.**

15 (a) CALCULATION METHOD.—Subject to subsections
16 (b) and (c), for the purposes of determining the amount
17 of the counter-cyclical payments to be paid to the pro-
18 ducers on a farm for long grain rice and medium grain
19 rice under section 1104, the base acres of rice on the farm
20 shall be apportioned using the 4-year average of the per-
21 centages of acreage planted in the applicable State to long
22 grain rice and medium grain rice during the 2003 through
23 2006 crop years, as determined by the Secretary.

24 (b) PRODUCER ELECTION.—As an alternative to the
25 calculation method described in subsection (a), the Sec-

1 retary shall provide producers on a farm the opportunity
2 to elect to apportion rice base acres on the farm using
3 the 4-year average of—

4 (1) the percentages of acreage planted on the
5 farm to long grain rice and medium grain rice dur-
6 ing the 2003 through 2006 crop years;

7 (2) the percentages of any acreage on the farm
8 that the producers were prevented from planting to
9 long grain rice and medium grain rice during the
10 2003 through 2006 crop years because of drought,
11 flood, other natural disaster, or other condition be-
12 yond the control of the producers, as determined by
13 the Secretary; and

14 (3) in the case of a crop year for which a pro-
15 ducer on a farm elected not to plant to long grain
16 and medium grain rice during the 2003 through
17 2006 crop years, the percentages of acreage planted
18 in the applicable State to long grain rice and me-
19 dium grain rice, as determined by the Secretary.

20 (c) **LIMITATION.**—In carrying out this section, the
21 Secretary shall use the same total base acres, payment
22 acres, and payment yields established with respect to rice
23 under sections 1101 and 1102 of the Farm Security and
24 Rural Investment Act of 2002 (7 U.S.C. 7911, 7912), as
25 in effect on the day before the date of enactment of this

1 Act, subject to any adjustment under section 1101 of this
2 Act.

3 **SEC. 1108. PERIOD OF EFFECTIVENESS.**

4 This part shall be effective beginning with the 2008
5 crop year of each covered commodity through the 2012
6 crop year.

7 **PART II—MARKETING ASSISTANCE LOANS AND**
8 **LOAN DEFICIENCY PAYMENTS**

9 **SEC. 1201. AVAILABILITY OF NONRECOURSE MARKETING**
10 **ASSISTANCE LOANS FOR LOAN COMMOD-**
11 **ITIES.**

12 (a) NONRECOURSE LOANS AVAILABLE.—

13 (1) AVAILABILITY.—Except as provided in sec-
14 tion 1401, for each of the 2008 through 2012 crops
15 of each loan commodity, the Secretary shall make
16 available to producers on a farm nonrecourse mar-
17 keting assistance loans for loan commodities pro-
18 duced on the farm.

19 (2) TERMS AND CONDITIONS.—The marketing
20 assistance loans shall be made under terms and con-
21 ditions that are prescribed by the Secretary and at
22 the loan rate established under section 1202 for the
23 loan commodity.

24 (b) ELIGIBLE PRODUCTION.—The producers on a
25 farm shall be eligible for a marketing assistance loan

1 under subsection (a) for any quantity of a loan commodity
2 produced on the farm.

3 (c) TREATMENT OF CERTAIN COMMINGLED COM-
4 MODITIES.—In carrying out this part, the Secretary shall
5 make loans to producers on a farm that would be eligible
6 to obtain a marketing assistance loan, but for the fact the
7 loan commodity owned by the producers on the farm is
8 commingled with loan commodities of other producers in
9 facilities unlicensed for the storage of agricultural com-
10 modities by the Secretary or a State licensing authority,
11 if the producers obtaining the loan agree to immediately
12 redeem the loan collateral in accordance with section 166
13 of the Federal Agriculture Improvement and Reform Act
14 of 1996 (7 U.S.C. 7286).

15 (d) COMPLIANCE WITH CONSERVATION AND WET-
16 LANDS REQUIREMENTS.—As a condition of the receipt of
17 a marketing assistance loan under subsection (a), the pro-
18 ducer shall comply with applicable conservation require-
19 ments under subtitle B of title XII of the Food Security
20 Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wet-
21 land protection requirements under subtitle C of title XII
22 of the Act (16 U.S.C. 3821 et seq.) during the term of
23 the loan.

1 **SEC. 1202. LOAN RATES FOR NONRECOURSE MARKETING**
2 **ASSISTANCE LOANS.**

3 (a) LOAN RATES.—For each of the 2008 through
4 2012 crop years, the loan rate for a marketing assistance
5 loan under section 1201 for a loan commodity shall be
6 equal to the following:

7 (1) In the case of wheat, \$2.94 per bushel.

8 (2) In the case of corn, \$1.95 per bushel.

9 (3) In the case of grain sorghum, \$1.95 per
10 bushel.

11 (4) In the case of barley, \$1.95 per bushel.

12 (5) In the case of oats, \$1.39 per bushel.

13 (6) In the case of the base quality of upland
14 cotton, \$0.52 per pound.

15 (7) In the case of extra long staple cotton,
16 \$0.7977 per pound.

17 (8) In the case of long grain rice, \$6.50 per
18 hundredweight.

19 (9) in the case of medium grain rice, \$6.50 per
20 hundredweight.

21 (10) In the case of soybeans, \$5.00 per bushel.

22 (11) In the case of other oilseeds, \$10.09 per
23 hundredweight.

24 (12) In the case of dry peas, \$5.40 per hun-
25 dredweight.

1 (13) In the case of lentils, \$11.28 per hundred-
2 weight.

3 (14) In the case of small chickpeas, \$7.43 per
4 hundredweight.

5 (15) In the case of large chickpeas, \$11.28 per
6 hundredweight.

7 (16) In the case of graded wool, \$1.20 per
8 pound.

9 (17) In the case of nongraded wool, \$0.40 per
10 pound.

11 (18) In the case of mohair, \$4.20 per pound.

12 (19) In the case of honey, \$0.72 per pound.

13 (b) SINGLE COUNTY LOAN RATE FOR OTHER OIL-
14 SEEDS.—The Secretary shall establish a single loan rate
15 in each county for each kind of other oilseeds described
16 in subsection (a)(10).

17 (c) GRADING BASIS FOR MARKETING LOANS FOR
18 PULSE CROPS.—The loan rate for pulse crops—

19 (1) shall be based on a grade not less than
20 grade number 2 or other grade factors, including the
21 fair and average quality of the 1 or more crops in
22 any year; and

23 (2) may be adjusted by the Secretary to reflect
24 the normal market discounts for grades less than
25 number 2 quality.

1 (d) CORN AND GRAIN SORGHUM.—Notwithstanding
2 any other provision of law, the Secretary shall establish
3 the loan rate for grain sorghum in each individual county
4 at a rate that is equal to the loan rate for corn in the
5 county.

6 **SEC. 1203. TERM OF LOANS.**

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

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

15 **SEC. 1204. REPAYMENT OF LOANS.**

16 (a) GENERAL RULE.—The Secretary shall permit the
17 producers on a farm to repay a marketing assistance loan
18 under section 1201 for a loan commodity (other than up-
19 land cotton, long grain rice, medium grain rice, extra long
20 staple cotton, and confectionery and each other kind of
21 sunflower seed (other than oil sunflower seed)) at a rate
22 that is the lesser of—

23 (1) the loan rate established for the commodity
24 under section 1202, plus interest (determined in ac-
25 cordance with section 163 of the Federal Agriculture

1 Improvement and Reform Act of 1996 (7 U.S.C.
2 7283)); or

3 (2) a rate that the Secretary determines will—

4 (A) minimize potential loan forfeitures;

5 (B) minimize the accumulation of stocks of
6 the commodity by the Federal Government;

7 (C) minimize the cost incurred by the Fed-
8 eral Government in storing the commodity;

9 (D) allow the commodity produced in the
10 United States to be marketed freely and com-
11 petitively, both domestically and internationally;
12 and

13 (E) minimize discrepancies in marketing
14 loan benefits across State boundaries and
15 across county boundaries.

16 (b) REPAYMENT RATES FOR UPLAND COTTON, LONG
17 GRAIN RICE, AND MEDIUM GRAIN RICE.—The Secretary
18 shall permit producers to repay a marketing assistance
19 loan under section 1201 for upland cotton, long grain rice,
20 and medium grain rice at a rate that is the lesser of—

21 (1) the loan rate established for the commodity
22 under section 1202, plus interest (determined in ac-
23 cordance with section 163 of the Federal Agriculture
24 Improvement and Reform Act of 1996 (7 U.S.C.
25 7283)); or

1 (2) the prevailing world market price for the
2 commodity (adjusted to United States quality and
3 location), as determined by the Secretary.

4 (c) REPAYMENT RATES FOR EXTRA LONG STAPLE
5 COTTON.—Repayment of a marketing assistance loan for
6 extra long staple cotton shall be at the loan rate estab-
7 lished for the commodity under section 1202, plus interest
8 (determined in accordance with section 163 of the Federal
9 Agriculture Improvement and Reform Act of 1996 (7
10 U.S.C. 7283)).

11 (d) PREVAILING WORLD MARKET PRICE.—For pur-
12 poses of this section and section 1207, the Secretary shall
13 prescribe by regulation—

14 (1) a formula to determine—

15 (A) the prevailing world market price for
16 upland cotton (adjusted to United States qual-
17 ity and location); and

18 (B) the prevailing world market price for
19 long grain rice and medium grain rice, adjusted
20 to United States quality and location; and

21 (2) a mechanism by which the Secretary shall
22 announce periodically the prevailing world market
23 price for upland cotton, long grain rice, and medium
24 grain rice.

1 (e) ADJUSTMENT OF PREVAILING WORLD MARKET
2 PRICE FOR UPLAND COTTON.—

3 (1) IN GENERAL.—During the period beginning
4 on the date of enactment of this Act and ending
5 July 31, 2013, the Secretary may further adjust the
6 prevailing world market price for upland cotton (ad-
7 justed to United States quality and location) if the
8 Secretary determines the adjustment is necessary—

9 (A) to minimize potential loan forfeitures;

10 (B) to minimize the accumulation of stocks
11 of upland cotton by the Federal Government;

12 (C) to allow upland cotton produced in the
13 United States to be marketed freely and com-
14 petitively, both domestically and internationally;

15 (D) to ensure that upland cotton produced
16 in the United States is competitive in world
17 markets; and

18 (E) to ensure an appropriate transition be-
19 tween current-crop and forward-crop price
20 quotations, except that the Secretary may use
21 forward-crop price quotations prior to July 31
22 of a marketing year only if—

23 (i) there are insufficient current-crop
24 price quotations; and

1 (ii) the forward-crop price quotation is
2 the lowest such quotation available.

3 (2) GUIDELINES FOR ADDITIONAL ADJUST-
4 MENTS.—In making adjustments under this sub-
5 section, the Secretary shall establish a mechanism
6 for determining and announcing the adjustments in
7 order to avoid undue disruption in the United States
8 market.

9 (f) REPAYMENT RATES FOR CONFECTIONERY AND
10 OTHER KINDS OF SUNFLOWER SEEDS.—The Secretary
11 shall permit the producers on a farm to repay a marketing
12 assistance loan under section 1201 for confectionery and
13 each other kind of sunflower seed (other than oil sunflower
14 seed) at a rate that is the lesser of—

15 (1) the loan rate established for the commodity
16 under section 1202, plus interest (determined in ac-
17 cordance with section 163 of the Federal Agriculture
18 Improvement and Reform Act of 1996 (7 U.S.C.
19 7283)); or

20 (2) the repayment rate established for oil sun-
21 flower seed.

22 (g) QUALITY GRADES FOR PULSE CROPS.—The loan
23 repayment rate for pulse crops shall be based on the qual-
24 ity grades for the applicable commodity specified in section
25 1202(c).

1 (h) PAYMENT OF COTTON STORAGE COSTS.—Effec-
2 tive for the 2008 through 2012 crop years, the Secretary
3 shall use the funds of the Commodity Credit Corporation
4 to provide cotton storage payments in the same manner,
5 and at the same rates, as the Secretary provided those
6 payments for the 2006 crop of cotton.

7 **SEC. 1205. LOAN DEFICIENCY PAYMENTS.**

8 (a) AVAILABILITY OF LOAN DEFICIENCY PAY-
9 MENTS.—

10 (1) IN GENERAL.—Except as provided in sub-
11 section (d) and section 1401, the Secretary may
12 make loan deficiency payments available to pro-
13 ducers on a farm that, although eligible to obtain a
14 marketing assistance loan under section 1201 with
15 respect to a loan commodity, agree to forgo obtain-
16 ing the loan for the commodity in return for loan de-
17 ficiency payments under this section.

18 (2) UNSHORN PELTS, HAY, AND SILAGE.—

19 (A) MARKETING ASSISTANCE LOANS.—

20 Subject to subparagraph (B), nongraded wool
21 in the form of unshorn pelts and hay and silage
22 derived from a loan commodity are not eligible
23 for a marketing assistance loan under section
24 1201.

1 (B) LOAN DEFICIENCY PAYMENT.—Effective
2 tive for the 2008 through 2012 crop years, the
3 Secretary may make loan deficiency payments
4 available under this section to producers on a
5 farm that produce unshorn pelts or hay and si-
6 lage derived from a loan commodity.

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

10 (1) the payment rate determined under sub-
11 section (c) for the commodity; by

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

16 (c) PAYMENT RATE.—

17 (1) IN GENERAL.—In the case of a loan com-
18 modity, the payment rate shall be the amount by
19 which—

20 (A) the loan rate established under section
21 1202 for the loan commodity; exceeds

22 (B) the rate at which a marketing assist-
23 ance loan for the loan commodity may be repaid
24 under section 1204.

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

4 (A) the loan rate established under section
5 1202 for ungraded wool; exceeds

6 (B) the rate at which a marketing assist-
7 ance loan for ungraded wool may be repaid
8 under section 1204.

9 (3) HAY AND SILAGE.—In the case of hay or si-
10 lage derived from a loan commodity, the payment
11 rate shall be the amount by which—

12 (A) the loan rate established under section
13 1202 for the loan commodity from which the
14 hay or silage is derived; exceeds

15 (B) the rate at which a marketing assist-
16 ance loan for the loan commodity may be repaid
17 under section 1204.

18 (d) EXCEPTION FOR EXTRA LONG STAPLE COT-
19 TON.—This section shall not apply with respect to extra
20 long staple cotton.

21 (e) EFFECTIVE DATE FOR PAYMENT RATE DETER-
22 MINATION.—

23 (1) LOSS OF BENEFICIAL INTEREST.—The Sec-
24 retary shall determine the amount of the loan defi-
25 ciency payment to be made under this section to the

1 producers on a farm with respect to a quantity of
2 a loan commodity or commodity referred to in sub-
3 section (a)(2) using the payment rate in effect under
4 subsection (c) as soon as practicable after the date
5 on which the producers on the farm lose beneficial
6 interest.

7 (2) ON-FARM CONSUMPTION.—For the quantity
8 of a loan commodity or commodity referred to in
9 subsection (a)(2) consumed on a farm, the Secretary
10 shall provide procedures to determine a date on
11 which the producers on the farm lose beneficial in-
12 terest.

13 **SEC. 1206. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAY-**
14 **MENTS FOR GRAZED ACREAGE.**

15 (a) ELIGIBLE PRODUCERS.—

16 (1) IN GENERAL.—Except as provided in sec-
17 tion 1401, effective for the 2008 through 2012 crop
18 years, in the case of a producer that would be eligi-
19 ble for a loan deficiency payment under section 1205
20 for wheat, barley, or oats, but that elects to use
21 acreage planted to the wheat, barley, or oats for the
22 grazing of livestock, the Secretary shall make a pay-
23 ment to the producer under this section if the pro-
24 ducer enters into an agreement with the Secretary

1 to forgo any other harvesting of the wheat, barley,
2 or oats on that acreage.

3 (2) GRAZING OF TRITICALE ACREAGE.—Effective
4 tive for the 2008 through 2012 crop years, with re-
5 spect to a producer on a farm that uses acreage
6 planted to triticale for the grazing of livestock, the
7 Secretary shall make a payment to the producer
8 under this section if the producer enters into an
9 agreement with the Secretary to forgo any other
10 harvesting of triticale on that acreage.

11 (b) PAYMENT AMOUNT.—

12 (1) IN GENERAL.—The amount of a payment
13 made under this section to a producer on a farm de-
14 scribed in subsection (a)(1) shall be equal to the
15 amount determined by multiplying—

16 (A) the loan deficiency payment rate deter-
17 mined under section 1205(c) in effect, as of the
18 date of the agreement, for the county in which
19 the farm is located; by

20 (B) the payment quantity determined by
21 multiplying—

22 (i) the quantity of the grazed acreage
23 on the farm with respect to which the pro-
24 ducer elects to forgo harvesting of wheat,
25 barley, or oats; and

1 (ii) the payment yield in effect for the
2 calculation of direct payments under part I
3 with respect to that loan commodity on the
4 farm or, in the case of a farm without a
5 payment yield for that loan commodity, an
6 appropriate yield established by the Sec-
7 retary in a manner consistent with section
8 1102(c).

9 (2) GRAZING OF TRITICALE ACREAGE.—The
10 amount of a payment made under this section to a
11 producer on a farm described in subsection (a)(2)
12 shall be equal to the amount determined by multi-
13 plying—

14 (A) the loan deficiency payment rate deter-
15 mined under section 1205(c) in effect for
16 wheat, as of the date of the agreement, for the
17 county in which the farm is located; by

18 (B) the payment quantity determined by
19 multiplying—

20 (i) the quantity of the grazed acreage
21 on the farm with respect to which the pro-
22 ducer elects to forgo harvesting of triticale;
23 and

24 (ii) the payment yield in effect for the
25 calculation of direct payments under part I

1 with respect to wheat on the farm or, in
2 the case of a farm without a payment yield
3 for wheat, an appropriate yield established
4 by the Secretary in a manner consistent
5 with section 1102(c).

6 (c) TIME, MANNER, AND AVAILABILITY OF PAY-
7 MENT.—

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

12 (2) AVAILABILITY.—

13 (A) IN GENERAL.—The Secretary shall es-
14 tablish an availability period for the payments
15 authorized by this section.

16 (B) CERTAIN COMMODITIES.—In the case
17 of wheat, barley, and oats, the availability pe-
18 riod shall be consistent with the availability pe-
19 riod for the commodity established by the Sec-
20 retary for marketing assistance loans author-
21 ized by this part.

22 (d) PROHIBITION ON CROP INSURANCE INDEMNITY
23 OR NONINSURED CROP ASSISTANCE.—A 2008 through
24 2012 crop of wheat, barley, oats, or triticale planted on
25 acreage that a producer elects, in the agreement required

1 by subsection (a), to use for the grazing of livestock in
2 lieu of any other harvesting of the crop shall not be eligible
3 for an indemnity under a policy or plan of insurance au-
4 thorized under the Federal Crop Insurance Act (7 U.S.C.
5 1501 et seq.) or noninsured crop assistance under section
6 196 of the Federal Agriculture Improvement and Reform
7 Act of 1996 (7 U.S.C. 7333).

8 **SEC. 1207. SPECIAL MARKETING LOAN PROVISIONS FOR**
9 **UPLAND COTTON.**

10 (a) SPECIAL IMPORT QUOTA.—

11 (1) DEFINITION OF SPECIAL IMPORT QUOTA.—

12 In this subsection, the term “special import quota”
13 means a quantity of imports that is not subject to
14 the over-quota tariff rate of a tariff-rate quota.

15 (2) ESTABLISHMENT.—

16 (A) IN GENERAL.—The President shall
17 carry out an import quota program during the
18 period beginning on the date of the enactment
19 of this Act through July 31, 2013, as provided
20 in this subsection.

21 (B) PROGRAM REQUIREMENTS.—Whenever
22 the Secretary determines and announces that
23 for any consecutive 4-week period, the Friday
24 through Thursday average price quotation for
25 the lowest-priced United States growth, as

1 quoted for Middling (M) 1 $\frac{3}{32}$ -inch cotton, de-
2 livered to a definable and significant inter-
3 national market, as determined by the Sec-
4 retary, exceeds the prevailing world market
5 price, there shall immediately be in effect a spe-
6 cial import quota.

7 (3) QUANTITY.—The quota shall be equal to 1
8 week’s consumption of cotton by domestic mills at
9 the seasonally adjusted average rate of the most re-
10 cent 3 months for which data are available.

11 (4) APPLICATION.—The quota shall apply to
12 upland cotton purchased not later than 90 days
13 after the date of the Secretary’s announcement
14 under paragraph (2) and entered into the United
15 States not later than 180 days after that date.

16 (5) OVERLAP.—A special quota period may be
17 established that overlaps any existing quota period if
18 required by paragraph (2), except that a special
19 quota period may not be established under this sub-
20 section if a quota period has been established under
21 subsection (b).

22 (6) PREFERENTIAL TARIFF TREATMENT.—The
23 quantity under a special import quota shall be con-
24 sidered to be an in-quota quantity for purposes of—

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

3 (B) section 204 of the Andean Trade Pref-
4 erence Act (19 U.S.C. 3203);

5 (C) section 503(d) of the Trade Act of
6 1974 (19 U.S.C. 2463(d)); and

7 (D) General Note 3(a)(iv) to the Har-
8 monized Tariff Schedule.

9 (7) LIMITATION.—The quantity of cotton en-
10 tered into the United States during any marketing
11 year under the special import quota established
12 under this subsection may not exceed the equivalent
13 of 10 week’s consumption of upland cotton by do-
14 mestic mills at the seasonally adjusted average rate
15 of the 3 months immediately preceding the first spe-
16 cial import quota established in any marketing year.

17 (b) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND
18 COTTON.—

19 (1) DEFINITIONS.—In this subsection:

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

24 (i) the carry-over of upland cotton at
25 the beginning of the marketing year (ad-

1 justed to 480-pound bales) in which the
2 quota is established;

3 (ii) production of the current crop;
4 and

5 (iii) imports to the latest date avail-
6 able during the marketing year.

7 (B) DEMAND.—The term “demand”
8 means—

9 (i) the average seasonally adjusted an-
10 nual rate of domestic mill consumption of
11 cotton during the most recent 3 months
12 for which data are available; and

13 (ii) the larger of—

14 (I) average exports of upland cot-
15 ton during the preceding 6 marketing
16 years; or

17 (II) cumulative exports of upland
18 cotton plus outstanding export sales
19 for the marketing year in which the
20 quota is established.

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

1 (2) PROGRAM.—The President shall carry out
2 an import quota program that provides that when-
3 ever the Secretary determines and announces that
4 the average price of the base quality of upland cot-
5 ton, as determined by the Secretary, in the des-
6 ignated spot markets for a month exceeded 130 per-
7 cent of the average price of the quality of cotton in
8 the markets for the preceding 36 months, notwith-
9 standing any other provision of law, there shall im-
10 mediately be in effect a limited global import quota
11 subject to the following conditions:

12 (A) QUANTITY.—The quantity of the quota
13 shall be equal to 21 days of domestic mill con-
14 sumption of upland cotton at the seasonally ad-
15 justed average rate of the most recent 3 months
16 for which data are available or as estimated by
17 the Secretary.

18 (B) QUANTITY IF PRIOR QUOTA.—If a
19 quota has been established under this sub-
20 section during the preceding 12 months, the
21 quantity of the quota next established under
22 this subsection shall be the smaller of 21 days
23 of domestic mill consumption calculated under
24 subparagraph (A) or the quantity required to

1 increase the supply to 130 percent of the de-
2 mand.

3 (C) PREFERENTIAL TARIFF TREAT-
4 MENT.—The quantity under a limited global
5 import quota shall be considered to be an in-
6 quota quantity for purposes of—

7 (i) section 213(d) of the Caribbean
8 Basin Economic Recovery Act (19 U.S.C.
9 2703(d));

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

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

14 (iv) General Note 3(a)(iv) to the Har-
15 monized Tariff Schedule.

16 (D) QUOTA ENTRY PERIOD.—When a
17 quota is established under this subsection, cot-
18 ton may be entered under the quota during the
19 90-day period beginning on the date the quota
20 is established by the Secretary.

21 (3) NO OVERLAP.—Notwithstanding paragraph
22 (2), a quota period may not be established that over-
23 laps an existing quota period or a special quota pe-
24 riod established under subsection (a).

1 (c) ECONOMIC ADJUSTMENT ASSISTANCE TO USERS
2 OF UPLAND COTTON.—

3 (1) IN GENERAL.—Subject to paragraph (2),
4 the Secretary shall, on a monthly basis, provide eco-
5 nomic adjustment assistance to domestic users of
6 upland cotton in the form of payments for all docu-
7 mented use of that upland cotton during the pre-
8 vious monthly period regardless of the origin of the
9 upland cotton.

10 (2) VALUE OF ASSISTANCE.—

11 (A) BEGINNING PERIOD.—During the pe-
12 riod beginning on August 1, 2008, and ending
13 on June 30, 2013, the value of the assistance
14 provided under paragraph (1) shall be 4 cents
15 per pound.

16 (B) SUBSEQUENT PERIOD.—Effective be-
17 ginning on July 1, 2013, the value of the assist-
18 ance provided under paragraph (1) shall be 0
19 cents per pound.

20 (3) ALLOWABLE PURPOSES.—Economic adjust-
21 ment assistance under this subsection shall be made
22 available only to domestic users of upland cotton
23 that certify that the assistance shall be used only to
24 acquire, construct, install, modernize, develop, con-

1 vert, or expand land, plant, buildings, equipment, fa-
2 cilities, or machinery.

3 (4) REVIEW OR AUDIT.—The Secretary may
4 conduct such review or audit of the records of a do-
5 mestic user under this subsection as the Secretary
6 determines necessary to carry out this subsection.

7 (5) IMPROPER USE OF ASSISTANCE.—If the
8 Secretary determines, after a review or audit of the
9 records of the domestic user, that economic adjust-
10 ment assistance under this subsection was not used
11 for the purposes specified in paragraph (3), the do-
12 mestic user shall be—

13 (A) liable to repay the assistance to the
14 Secretary, plus interest, as determined by the
15 Secretary; and

16 (B) ineligible to receive assistance under
17 this subsection for a period of 1 year following
18 the determination of the Secretary.

19 **SEC. 1208. SPECIAL COMPETITIVE PROVISIONS FOR EXTRA**
20 **LONG STAPLE COTTON.**

21 (a) COMPETITIVENESS PROGRAM.—Notwithstanding
22 any other provision of law, during the period beginning
23 on the date of the enactment of this Act through July 31,
24 2013, the Secretary shall carry out a program—

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

4 (2) to increase exports of extra long staple cot-
5 ton produced in the United States; and

6 (3) to ensure that extra long staple cotton pro-
7 duced in the United States remains competitive in
8 world markets.

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

12 (1) for a consecutive 4-week period, the world
13 market price for the lowest priced competing growth
14 of extra long staple cotton (adjusted to United
15 States quality and location and for other factors af-
16 fecting the competitiveness of such cotton), as deter-
17 mined by the Secretary, is below the prevailing
18 United States price for a competing growth of extra
19 long staple cotton; and

20 (2) the lowest priced competing growth of extra
21 long staple cotton (adjusted to United States quality
22 and location and for other factors affecting the com-
23 petitiveness of such cotton), as determined by the
24 Secretary, is less than 134 percent of the loan rate
25 for extra long staple cotton.

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

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

15 **SEC. 1209. AVAILABILITY OF RECOURSE LOANS FOR HIGH**
16 **MOISTURE FEED GRAINS AND SEED COTTON.**

17 (a) HIGH MOISTURE FEED GRAINS.—

18 (1) DEFINITION OF HIGH MOISTURE STATE.—
19 In this subsection, the term “high moisture state”
20 means corn or grain sorghum having a moisture con-
21 tent in excess of Commodity Credit Corporation
22 standards for marketing assistance loans made by
23 the Secretary under section 1201.

24 (2) RECOURSE LOANS AVAILABLE.—For each of
25 the 2008 through 2012 crops of corn and grain sor-

1 ghum, the Secretary shall make available recourse
2 loans, as determined by the Secretary, to producers
3 on a farm that—

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

7 (B) present—

8 (i) certified scale tickets from an in-
9 spected, certified commercial scale, includ-
10 ing a licensed warehouse, feedlot, feed mill,
11 distillery, or other similar entity approved
12 by the Secretary, pursuant to regulations
13 issued by the Secretary; or

14 (ii) field or other physical measure-
15 ments of the standing or stored crop in re-
16 gions of the United States, as determined
17 by the Secretary, that do not have certified
18 commercial scales from which certified
19 scale tickets may be obtained within rea-
20 sonable proximity of harvest operation;

21 (C) certify that they were the owners of
22 the feed grain at the time of delivery to, and
23 that the quantity to be placed under loan under
24 this subsection was in fact harvested on the
25 farm and delivered to, a feedlot, feed mill, or

1 commercial or on-farm high-moisture storage
2 facility, or to a facility maintained by the users
3 of corn and grain sorghum in a high moisture
4 state; and

5 (D) comply with deadlines established by
6 the Secretary for harvesting the corn or grain
7 sorghum and submit applications for loans
8 under this subsection within deadlines estab-
9 lished by the Secretary.

10 (3) ELIGIBILITY OF ACQUIRED FEED GRAINS.—

11 A loan under this subsection shall be made on a
12 quantity of corn or grain sorghum of the same crop
13 acquired by the producer equivalent to a quantity
14 determined by multiplying—

15 (A) the acreage of the corn or grain sor-
16 ghum in a high moisture state harvested on the
17 producer's farm; by

18 (B) the lower of the farm program pay-
19 ment yield used to make counter-cyclical pay-
20 ments under part I or the actual yield on a
21 field, as determined by the Secretary, that is
22 similar to the field from which the corn or grain
23 sorghum was obtained.

24 (b) RECOURSE LOANS AVAILABLE FOR SEED COT-
25 TON.—For each of the 2008 through 2012 crops of upland

1 cotton and extra long staple cotton, the Secretary shall
2 make available recourse seed cotton loans, as determined
3 by the Secretary, on any production.

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

10 **SEC. 1210. ADJUSTMENTS OF LOANS.**

11 (a) ADJUSTMENT AUTHORITY.—Subject to sub-
12 sections (e) and (f), the Secretary may make appropriate
13 adjustments in the loan rates for any loan commodity
14 (other than cotton) for differences in grade, type, quality,
15 location, and other factors.

16 (b) MANNER OF ADJUSTMENT.—The adjustments
17 under subsection (a) shall, to the maximum extent prac-
18 ticable, be made in such a manner that the average loan
19 level for the commodity will, on the basis of the anticipated
20 incidence of the factors, be equal to the level of support
21 determined in accordance with this subtitle and subtitles
22 B through E.

23 (c) ADJUSTMENT ON COUNTY BASIS.—

24 (1) IN GENERAL.—The Secretary may establish
25 loan rates for a crop for producers in individual

1 counties in a manner that results in the lowest loan
2 rate being 95 percent of the national average loan
3 rate, if those loan rates do not result in an increase
4 in outlays.

5 (2) PROHIBITION.—Adjustments under this
6 subsection shall not result in an increase in the na-
7 tional average loan rate for any year.

8 (d) ADJUSTMENT IN LOAN RATE FOR COTTON.—

9 (1) IN GENERAL.—The Secretary may make
10 appropriate adjustments in the loan rate for cotton
11 for differences in quality factors.

12 (2) REVISIONS TO QUALITY ADJUSTMENTS FOR
13 UPLAND COTTON.—

14 (A) IN GENERAL.—Not later than 180
15 days after the enactment of this Act and after
16 consultation with the private sector in accord-
17 ance with paragraph (3), the Secretary shall
18 implement revisions in the administration of the
19 marketing assistance loan program for upland
20 cotton to more accurately and efficiently reflect
21 market values for upland cotton.

22 (B) MANDATORY REVISIONS.—Revisions
23 under subparagraph (A) shall include—

24 (i) the elimination of warehouse loca-
25 tion differentials;

1 (ii) the establishment of differentials
2 for the various quality factors and staple
3 lengths of cotton based on a 3-year,
4 weighted moving average of the weighted
5 designated spot market regions, as deter-
6 mined by regional production;

7 (iii) the elimination of any artificial
8 split in the premium or discount between
9 upland cotton with a 32 or 33 staple
10 length due to micronaire; and

11 (iv) a mechanism to ensure that no
12 premium or discount is established that ex-
13 ceeds the premium or discount associated
14 with a leaf grade that is 1 better than the
15 applicable color grade.

16 (C) DISCRETIONARY REVISIONS.—Revi-
17 sions under subparagraph (A) may include—

18 (i) the use of non-spot market price
19 data, in addition to spot market price data,
20 that would enhance the accuracy of the
21 price information used in determining
22 quality adjustments under this subsection;

23 (ii) adjustments in the premiums or
24 discounts associated with upland cotton
25 with a staple length of 33 or above due to

1 micronaire with the goal of eliminating any
2 unnecessary artificial splits in the calcula-
3 tions of the premiums or discounts; and

4 (iii) such other adjustments as the
5 Secretary determines appropriate, after
6 consultations conducted in accordance with
7 paragraph (3).

8 (3) CONSULTATION WITH PRIVATE SECTOR.—

9 (A) PRIOR TO REVISION.—Prior to imple-
10 menting any revisions to the administration of
11 the marketing assistance loan program for up-
12 land cotton, the Secretary shall consult with a
13 private sector committee that—

14 (i) is in existence as of the date of en-
15 actment of this Act;

16 (ii) has a membership that includes
17 representatives of the production, ginning,
18 warehousing, cooperative, and merchan-
19 dising segments of the United States cot-
20 ton industry; and

21 (iii) has developed recommendations
22 concerning the revisions.

23 (B) REVIEW OF ADJUSTMENTS.—The Sec-
24 retary shall consult with the committee de-
25 scribed in subparagraph (A) when conducting a

1 review of adjustments in the operation of the
2 loan program for upland cotton in accordance
3 with paragraph (4).

4 (C) INAPPLICABILITY OF FEDERAL ADVI-
5 SORY COMMITTEE ACT.—The Federal Advisory
6 Committee Act (5 U.S.C. App.) shall not apply
7 to consultations under this subsection.

8 (4) REVIEW OF ADJUSTMENTS.—The Secretary
9 may review the operation of the upland cotton qual-
10 ity adjustments implemented pursuant to this sub-
11 section and may make further revisions to the ad-
12 ministration of the loan program for upland cotton,
13 by—

14 (A) revoking or revising any actions taken
15 under paragraph (2)(B); or

16 (B) revoking or revising any actions taken
17 or authorized to be taken under paragraph
18 (2)(C).

19 (5) ADJUSTMENTS IN EFFECT PRIOR TO REVI-
20 SION.—The quality differences (premiums and dis-
21 counts for quality factors) applicable to the loan pro-
22 gram for upland cotton (prior to any revisions in ac-
23 cordance with this subsection) shall be established
24 by the Secretary by giving equal weight to—

1 (A) loan differences for the preceding crop;
2 and

3 (B) market differences for the crop in the
4 designated United States spot markets.

5 (e) CORN AND GRAIN SORGHUM.—In the case of corn
6 and grain sorghum, the Secretary shall establish—

7 (1) the corn loan rate in each county according
8 to subsections (a), (b), and (c); and

9 (2) the grain sorghum loan rate in each county
10 at a rate that is equal to paragraph (1).

11 (f) RICE.—The Secretary shall not make adjustments
12 in the loan rates for long grain rice and medium grain
13 rice, except for differences in grade and quality (including
14 milling yields).

15 **PART III—PEANUTS**

16 **SEC. 1301. DEFINITIONS.**

17 In this part:

18 (1) **BASE ACRES FOR PEANUTS.**—The term
19 “base acres for peanuts” means the number of acres
20 assigned to a farm pursuant to section 1302 of the
21 Farm Security and Rural Investment Act of 2002 (7
22 U.S.C. 7952), as in effect on the day before the date
23 of enactment of this Act, subject to any adjustment
24 under section 1302 of this Act.

1 (2) COUNTER-CYCLICAL PAYMENT.—The term
2 “counter-cyclical payment” means a payment made
3 to producers on a farm under section 1304.

4 (3) DIRECT PAYMENT.—The term “direct pay-
5 ment” means a direct payment made to producers
6 on a farm under section 1303.

7 (4) EFFECTIVE PRICE.—The term “effective
8 price” means the price calculated by the Secretary
9 under section 1304 for peanuts to determine wheth-
10 er counter-cyclical payments are required to be made
11 under that section for a crop year.

12 (5) PAYMENT ACRES.—The term “payment
13 acres” means 85 percent of the base acres for pea-
14 nuts.

15 (6) PAYMENT YIELD.—The term “payment
16 yield” means the yield established for direct pay-
17 ments and counter-cyclical payments under section
18 1302 of the Farm Security and Rural Investment
19 Act of 2002 (7 U.S.C. 7952), as in effect on the day
20 before the date of enactment of this Act, for a farm
21 for peanuts.

22 (7) PRODUCER.—

23 (A) IN GENERAL.—The term “producer”
24 means an owner, operator, landlord, tenant, or
25 sharecropper that shares in the risk of pro-

1 ducing a crop on a farm and is entitled to share
2 in the crop available for marketing from the
3 farm, or would have shared had the crop been
4 produced.

5 (B) HYBRID SEED.—In determining
6 whether a grower of hybrid seed is a producer,
7 the Secretary shall—

8 (i) not take into consideration the ex-
9 istence of a hybrid seed contract; and

10 (ii) ensure that program requirements
11 do not adversely affect the ability of the
12 grower to receive a payment under this
13 part.

14 (8) STATE.—The term “State” means—

15 (A) a State;

16 (B) the District of Columbia;

17 (C) the Commonwealth of Puerto Rico;

18 and

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

21 (9) TARGET PRICE.—The term “target price”
22 means the price per ton of peanuts used to deter-
23 mine the payment rate for counter-cyclical pay-
24 ments.

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

4 **SEC. 1302. BASE ACRES FOR PEANUTS FOR A FARM.**

5 (a) ADJUSTMENT OF BASE ACREAGE FOR PEA-
6 NUTS.—

7 (1) TREATMENT OF CONSERVATION RESERVE
8 CONTRACT ACREAGE.—The Secretary shall provide
9 for an adjustment, as appropriate, in the base acres
10 for peanuts for a farm whenever either of the fol-
11 lowing circumstances occur:

12 (A) A conservation reserve contract en-
13 tered into under section 1231 of the Food Secu-
14 rity Act of 1985 (16 U.S.C. 3831) with respect
15 to the farm expires or is voluntarily terminated.

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

19 (C) The producer has eligible pulse crop or
20 camelina acreage.

21 (D) The producer has eligible oilseed acre-
22 age as the result of the Secretary designating
23 additional oilseeds.

24 (2) SPECIAL CONSERVATION RESERVE ACREAGE
25 PAYMENT RULES.—For the crop year in which a

1 base acres for peanuts adjustment under paragraph
2 (1) is first made, the owner of the farm shall elect
3 to receive either direct payments and counter-cyclical
4 payments with respect to the acreage added to the
5 farm under this subsection or a prorated payment
6 under the conservation reserve contract, but not
7 both.

8 (b) PREVENTION OF EXCESS BASE ACRES FOR PEA-
9 NUTS.—

10 (1) REQUIRED REDUCTION.—If the sum of the
11 base acres for peanuts for a farm, together with the
12 acreage described in paragraph (2), exceeds the ac-
13 tual cropland acreage of the farm, the Secretary
14 shall reduce the base acres for peanuts for the farm
15 or the base acres for 1 or more covered commodities
16 for the farm so that the sum of the base acres for
17 peanuts and acreage described in paragraph (2) does
18 not exceed the actual cropland acreage of the farm.

19 (2) OTHER ACREAGE.—For purposes of para-
20 graph (1), the Secretary shall include the following:

21 (A) Any base acres for the farm for a cov-
22 ered commodity.

23 (B) Any acreage on the farm enrolled in
24 the conservation reserve program or wetlands
25 reserve program under chapter 1 of subtitle D

1 of title XII of the Food Security Act of 1985
2 (16 U.S.C. 3830 et seq.).

3 (C) Any other acreage on the farm enrolled
4 in a Federal conservation program for which
5 payments are made in exchange for not pro-
6 ducing an agricultural commodity on the acre-
7 age.

8 (D) Any eligible pulse crop or camelina
9 acreage, which shall be determined in the same
10 manner as eligible oilseed acreage under section
11 1101(a)(2) of the Farm Security and Rural In-
12 vestment Act of 2002 (7 U.S.C. 7911(a)(2)).

13 (E) If the Secretary designates additional
14 oilseeds, any eligible oilseed acreage, which shall
15 be determined in the same manner as eligible
16 oilseed acreage under section 1101(a)(2) of the
17 Farm Security and Rural Investment Act of
18 2002 (7 U.S.C. 7911(a)(2)).

19 (3) SELECTION OF ACRES.—The Secretary shall
20 give the owner of the farm the opportunity to select
21 the base acres for peanuts or the base acres for cov-
22 ered commodities against which the reduction re-
23 quired by paragraph (1) will be made.

24 (4) EXCEPTION FOR DOUBLE-CROPPED ACRE-
25 AGE.—In applying paragraph (1), the Secretary

1 shall make an exception in the case of double crop-
2 ping, as determined by the Secretary.

3 (5) COORDINATED APPLICATION OF REQUIRE-
4 MENTS.—The Secretary shall take into account sec-
5 tion 1101(b) when applying the requirements of this
6 subsection.

7 (c) PERMANENT REDUCTION IN BASE ACRES FOR
8 PEANUTS.—

9 (1) IN GENERAL.—The owner of a farm may
10 reduce, at any time, the base acres for peanuts as-
11 signed to the farm.

12 (2) ADMINISTRATION.—The reduction shall be
13 permanent and made in the manner prescribed by
14 the Secretary.

15 **SEC. 1303. AVAILABILITY OF DIRECT PAYMENTS FOR PEA-**
16 **NUTS.**

17 (a) PAYMENT REQUIRED.—Except as provided in
18 section 1401, for each of the 2008 through 2012 crop
19 years for peanuts, the Secretary shall make direct pay-
20 ments to the producers on a farm to which a payment
21 yield and base acres for peanuts are established.

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

1 (c) PAYMENT AMOUNT.—The amount of the direct
2 payment to be paid to the producers on a farm for the
3 2008 through 2012 crops of peanuts shall be equal to the
4 product of the following:

5 (1) The payment rate specified in subsection

6 (b).

7 (2) The payment acres on the farm.

8 (3) The payment yield for the farm.

9 (d) TIME FOR PAYMENT.—

10 (1) IN GENERAL.—In the case of each of the
11 2008 through 2012 crop years, the Secretary shall
12 make direct payments under this section not earlier
13 than October 1 of the calendar year in which the
14 crop is harvested.

15 (2) ADVANCE PAYMENTS.—

16 (A) OPTION.—At the option of the pro-
17 ducers on a farm, the Secretary shall pay in ad-
18 vance up to 22 percent of the direct payment
19 for peanuts for any of the 2008 through 2011
20 crop years to the producers on a farm.

21 (B) MONTH.—

22 (i) SELECTION.—Subject to clauses
23 (ii) and (iii), the producers on a farm shall
24 select the month during which the advance
25 payment for a crop year will be made.

1 (ii) OPTIONS.—The month selected
2 may be any month during the period—

3 (I) beginning on December 1 of
4 the calendar year before the calendar
5 year in which the crop of peanuts is
6 harvested; and

7 (II) ending during the month
8 within which the direct payment
9 would otherwise be made.

10 (iii) CHANGE.—The producers on a
11 farm may change the selected month for a
12 subsequent advance payment by providing
13 advance notice to the Secretary.

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

1 **SEC. 1304. AVAILABILITY OF COUNTER-CYCLICAL PAY-**
2 **MENTS FOR PEANUTS.**

3 (a) **PAYMENT REQUIRED.**—Except as provided in
4 section 1401, for each of the 2008 through 2012 crop
5 years for peanuts, the Secretary shall make counter-cycli-
6 cal payments to producers on farms for which payment
7 yields and base acres for peanuts are established if the
8 Secretary determines that the effective price for peanuts
9 is less than the target price for peanuts.

10 (b) **EFFECTIVE PRICE.**—For purposes of subsection
11 (a), the effective price for peanuts is equal to the sum
12 of the following:

13 (1) The higher of the following:

14 (A) The national average market price for
15 peanuts received by producers during the 12-
16 month marketing year for peanuts, as deter-
17 mined by the Secretary.

18 (B) The national average loan rate for a
19 marketing assistance loan for peanuts in effect
20 for the applicable period under this part.

21 (2) The payment rate in effect for peanuts
22 under section 1303 for the purpose of making direct
23 payments.

24 (c) **TARGET PRICE.**—For purposes of subsection (a),
25 the target price for peanuts shall be equal to \$495 per
26 ton.

1 (d) PAYMENT RATE.—The payment rate used to
2 make counter-cyclical payments for a crop year shall be
3 equal to the difference between—

4 (1) the target price; and

5 (2) the effective price determined under sub-
6 section (b).

7 (e) PAYMENT AMOUNT.—If counter-cyclical pay-
8 ments are required to be paid for any of the 2008 through
9 2012 crops of peanuts, the amount of the counter-cyclical
10 payment to be paid to the producers on a farm for that
11 crop year shall be equal to the product of the following:

12 (1) The payment rate specified in subsection
13 (d).

14 (2) The payment acres on the farm.

15 (3) The payment yield for the farm.

16 (f) TIME FOR PAYMENTS.—

17 (1) GENERAL RULE.—If the Secretary deter-
18 mines under subsection (a) that counter-cyclical pay-
19 ments are required to be made under this section for
20 a crop year, the Secretary shall make the counter-
21 cyclical payments for the crop year beginning on Oc-
22 tober 1 or as soon as practicable after the end of the
23 marketing year.

24 (2) AVAILABILITY OF PARTIAL PAYMENTS.—

1 (A) IN GENERAL.—If, before the end of
2 the 12-month marketing year, the Secretary es-
3 timates that counter-cyclical payments will be
4 required under this section for a crop year, the
5 Secretary shall give producers on a farm the
6 option to receive partial payments of the
7 counter-cyclical payment projected to be made
8 for the crop.

9 (B) ELECTION.—

10 (i) IN GENERAL.—The Secretary shall
11 allow participants to make an election to
12 receive partial payments under subpara-
13 graph (A) at any time but not later than
14 30 days prior to the end of the marketing
15 year for the crop.

16 (ii) DATE OF ISSUANCE.—The Sec-
17 retary shall issue the partial payment after
18 the date of an announcement by the Sec-
19 retary but not later than 30 days prior to
20 the end of the marketing year.

21 (3) TIME FOR PARTIAL PAYMENTS.—When the
22 Secretary makes partial payments available for any
23 of the 2008 through 2010 crop years—

1 (A) the first partial payment shall be made
2 after completion of the first 180 days of the
3 marketing year for that crop; and

4 (B) the final partial payment shall be
5 made on October 1 of the fiscal year starting
6 in the same calendar year as the end of the
7 marketing year for that crop.

8 (4) AMOUNT OF PARTIAL PAYMENTS.—

9 (A) FIRST PARTIAL PAYMENT.—For each
10 of the 2008 through 2010 crop years, the first
11 partial payment under paragraph (3) to the
12 producers on a farm may not exceed 40 percent
13 of the projected counter-cyclical payment for
14 the crop year, as determined by the Secretary.

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

18 (i) the actual counter-cyclical payment
19 to be made to the producers for that crop
20 year; and

21 (ii) the amount of the partial payment
22 made to the producers under subparagraph
23 (A).

24 (5) REPAYMENT.—The producers on a farm
25 that receive a partial payment under this subsection

1 for a crop year shall repay to the Secretary the
2 amount, if any, by which the total of the partial pay-
3 ments exceed the actual counter-cyclical payment to
4 be made for that crop year.

5 **SEC. 1305. PRODUCER AGREEMENT REQUIRED AS CONDI-**
6 **TION ON PROVISION OF DIRECT PAYMENTS**
7 **AND COUNTER-CYCLICAL PAYMENTS.**

8 (a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

9 (1) REQUIREMENTS.—Before the producers on
10 a farm may receive direct payments or counter-cycli-
11 cal payments under this part with respect to the
12 farm, the producers shall agree, during the crop year
13 for which the payments are made and in exchange
14 for the payments—

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

19 (B) to comply with applicable wetland pro-
20 tection requirements under subtitle C of title
21 XII of that Act (16 U.S.C. 3821 et seq.);

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

24 (D) to use the land on the farm, in a
25 quantity equal to the attributable base acres for

1 peanuts and any base acres for the farm under
2 part I, for an agricultural or conserving use,
3 and not for a nonagricultural commercial, in-
4 dustrial, or residential use (including land sub-
5 divided and developed into residential units or
6 other nonfarming uses, or that is otherwise no
7 longer intended to be used in conjunction with
8 a farming operation), as determined by the Sec-
9 retary; and

10 (E) to effectively control noxious weeds
11 and otherwise maintain the land in accordance
12 with sound agricultural practices, as determined
13 by the Secretary, if the agricultural or con-
14 serving use involves the noncultivation of any
15 portion of the land referred to in subparagraph
16 (D).

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

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

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

3 (1) TERMINATION.—

4 (A) IN GENERAL.—Except as provided in
5 paragraph (2), a transfer of (or change in) the
6 interest of the producers on a farm in the base
7 acres for peanuts for which direct payments or
8 counter-cyclical payments are made shall result
9 in the termination of the payments with respect
10 to those acres, unless the transferee or owner of
11 the acreage agrees to assume all obligations
12 under subsection (a).

13 (B) EFFECTIVE DATE.—The termination
14 shall take effect on the date determined by the
15 Secretary.

16 (2) EXCEPTION.—If a producer entitled to a di-
17 rect payment or counter-cyclical payment dies, be-
18 comes incompetent, or is otherwise unable to receive
19 the payment, the Secretary shall make the payment,
20 in accordance with rules issued by the Secretary.

21 (c) ACREAGE REPORTS.—

22 (1) IN GENERAL.—As a condition on the receipt
23 of any benefits under this part, the Secretary shall
24 require producers on a farm to submit to the Sec-

1 retary annual acreage reports with respect to all
2 cropland on the farm.

3 (2) PENALTIES.—No penalty with respect to
4 benefits under this part shall be assessed against the
5 producers on a farm for an inaccurate acreage re-
6 port unless the producers on the farm knowingly and
7 willfully falsified the acreage report.

8 (d) TENANTS AND SHARECROPPERS.—In carrying
9 out this part, the Secretary shall provide adequate safe-
10 guards to protect the interests of tenants and share-
11 croppers.

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

16 **SEC. 1306. PLANTING FLEXIBILITY.**

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

20 (b) LIMITATIONS REGARDING CERTAIN COMMOD-
21 ITIES.—

22 (1) GENERAL LIMITATION.—The planting of an
23 agricultural commodity specified in paragraph (3)
24 shall be prohibited on base acres for peanuts unless

1 the commodity, if planted, is destroyed before har-
2 vest.

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

8 (3) COVERED AGRICULTURAL COMMODITIES.—
9 Paragraphs (1) and (2) apply to the following agri-
10 cultural commodities:

11 (A) Fruits.

12 (B) Vegetables (other than mung beans
13 and pulse crops).

14 (C) Wild rice.

15 (e) EXCEPTIONS.—Paragraphs (1) and (2) of sub-
16 section (b) shall not limit the planting of an agricultural
17 commodity specified in paragraph (3) of that subsection—

18 (1) in any region in which there is a history of
19 double-cropping of peanuts with agricultural com-
20 modities specified in subsection (b)(3), as deter-
21 mined by the Secretary, in which case the double-
22 cropping shall be permitted;

23 (2) on a farm that the Secretary determines
24 has a history of planting agricultural commodities
25 specified in subsection (b)(3) on the base acres for

1 peanuts, except that direct payments and counter-cy-
2 clical payments shall be reduced by an acre for each
3 acre planted to such an agricultural commodity; or

4 (3) by the producers on a farm that the Sec-
5 retary determines has an established planting his-
6 tory of a specific agricultural commodity specified in
7 subsection (b)(3), except that—

8 (A) the quantity planted may not exceed
9 the average annual planting history of such ag-
10 ricultural commodity by the producers on the
11 farm in the 1991 through 1995 or 1998
12 through 2001 crop years (excluding any crop
13 year in which no plantings were made), as de-
14 termined by the Secretary; and

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

18 **SEC. 1307. MARKETING ASSISTANCE LOANS AND LOAN DE-**

19 **FICIENCY PAYMENTS FOR PEANUTS.**

20 (a) **NONRECOURSE LOANS AVAILABLE.—**

21 (1) **AVAILABILITY.—**Except as provided in sec-
22 tion 1401, for each of the 2008 through 2012 crops
23 of peanuts, the Secretary shall make available to
24 producers on a farm nonrecourse marketing assist-
25 ance loans for peanuts produced on the farm.

1 (2) TERMS AND CONDITIONS.—The loans shall
2 be made under terms and conditions that are pre-
3 scribed by the Secretary and at the loan rate estab-
4 lished under subsection (b).

5 (3) ELIGIBLE PRODUCTION.—The producers on
6 a farm shall be eligible for a marketing assistance
7 loan under this subsection for any quantity of pea-
8 nuts produced on the farm.

9 (4) TREATMENT OF CERTAIN COMMINGLED
10 COMMODITIES.—In carrying out this subsection, the
11 Secretary shall make loans to producers on a farm
12 that would be eligible to obtain a marketing assist-
13 ance loan, but for the fact the peanuts owned by the
14 producers on the farm are commingled with other
15 peanuts in facilities unlicensed for the storage of ag-
16 ricultural commodities by the Secretary or a State li-
17 censing authority, if the producers obtaining the
18 loan agree to immediately redeem the loan collateral
19 in accordance with section 166 of the Federal Agri-
20 culture Improvement and Reform Act of 1996 (7
21 U.S.C. 7286).

22 (5) OPTIONS FOR OBTAINING LOAN.—A mar-
23 keting assistance loan under this subsection, and
24 loan deficiency payments under subsection (e), may

1 be obtained at the option of the producers on a farm
2 through—

3 (A) a designated marketing association or
4 marketing cooperative of producers that is ap-
5 proved by the Secretary; or

6 (B) the Farm Service Agency.

7 (6) STORAGE OF LOAN PEANUTS.—As a condi-
8 tion on the Secretary’s approval of an individual or
9 entity to provide storage for peanuts for which a
10 marketing assistance loan is made under this sec-
11 tion, the individual or entity shall agree—

12 (A) to provide such storage on a non-
13 discriminatory basis; and

14 (B) to comply with such additional require-
15 ments as the Secretary considers appropriate to
16 accomplish the purposes of this section and pro-
17 mote fairness in the administration of the bene-
18 fits of this section.

19 (7) STORAGE, HANDLING, AND ASSOCIATED
20 COSTS.—

21 (A) IN GENERAL.—Beginning with the
22 2007 crop of peanuts, to ensure proper storage
23 of peanuts for which a loan is made under this
24 section or section 1307 of the Farm Security
25 and Rural Investment Act of 2002 (7 U.S.C.

1 7957), the Secretary shall use the funds of the
2 Commodity Credit Corporation to pay handling
3 and other associated costs (other than storage
4 costs) incurred at the time at which the peanuts
5 are placed under loan, as determined by the
6 Secretary.

7 (B) REDEMPTION AND FORFEITURE.—The
8 Secretary shall—

9 (i) require the repayment of handling
10 and other associated costs paid under sub-
11 paragraph (A) for all peanuts pledged as
12 collateral for a loan that is redeemed under
13 this section or section 1307 of the Farm
14 Security and Rural Investment Act of
15 2002 (7 U.S.C. 7957); and

16 (ii) pay storage, handling, and other
17 associated costs for all peanuts pledged as
18 collateral that are forfeited under this sec-
19 tion or section 1307 of that Act.

20 (8) MARKETING.—A marketing association or
21 cooperative may market peanuts for which a loan is
22 made under this section in any manner that con-
23 forms to consumer needs, including the separation of
24 peanuts by type and quality.

1 (b) LOAN RATE.—The loan rate for a marketing as-
2 sistance loan for peanuts under subsection (a) shall be
3 equal to \$355 per ton.

4 (c) TERM OF LOAN.—

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

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

12 (d) REPAYMENT RATE.—The Secretary shall permit
13 producers on a farm to repay a marketing assistance loan
14 for peanuts under subsection (a) at a rate that is the less-
15 er of—

16 (1) the loan rate established for peanuts under
17 subsection (b), plus interest (determined in accord-
18 ance with section 163 of the Federal Agriculture Im-
19 provement and Reform Act of 1996 (7 U.S.C.
20 7283)); or

21 (2) a rate that the Secretary determines will—

22 (A) minimize potential loan forfeitures;

23 (B) minimize the accumulation of stocks of
24 peanuts by the Federal Government;

1 (C) minimize the cost incurred by the Fed-
2 eral Government in storing peanuts; and

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

6 (e) LOAN DEFICIENCY PAYMENTS.—

7 (1) AVAILABILITY.—The Secretary may make
8 loan deficiency payments available to producers on a
9 farm that, although eligible to obtain a marketing
10 assistance loan for peanuts under subsection (a),
11 agree to forgo obtaining the loan for the peanuts in
12 return for loan deficiency payments under this sub-
13 section.

14 (2) COMPUTATION.—A loan deficiency payment
15 under this subsection shall be computed by multi-
16 plying—

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

19 (B) the quantity of the peanuts produced
20 by the producers, excluding any quantity for
21 which the producers obtain a marketing assist-
22 ance loan under subsection (a).

23 (3) PAYMENT RATE.—For purposes of this sub-
24 section, the payment rate shall be the amount by
25 which—

1 (A) the loan rate established under sub-
2 section (b); exceeds

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

5 (4) EFFECTIVE DATE FOR PAYMENT RATE DE-
6 TERMINATION.—The Secretary shall determine the
7 amount of the loan deficiency payment to be made
8 under this subsection to the producers on a farm
9 with respect to a quantity of peanuts using the pay-
10 ment rate in effect under paragraph (3) as soon as
11 practicable after the date on which the producers on
12 the farm lose beneficial interest.

13 (f) COMPLIANCE WITH CONSERVATION AND WET-
14 LANDS REQUIREMENTS.—As a condition of the receipt of
15 a marketing assistance loan under subsection (a), the pro-
16 ducer shall comply with applicable conservation require-
17 ments under subtitle B of title XII of the Food Security
18 Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wet-
19 land protection requirements under subtitle C of title XII
20 of that Act (16 U.S.C. 3821 et seq.) during the term of
21 the loan.

22 (g) REIMBURSABLE AGREEMENTS AND PAYMENT OF
23 ADMINISTRATIVE EXPENSES.—The Secretary may imple-
24 ment any reimbursable agreements or provide for the pay-
25 ment of administrative expenses under this part only in

1 a manner that is consistent with such activities in regard
2 to other commodities.

3 **SEC. 1308. ADJUSTMENTS OF LOANS.**

4 (a) **ADJUSTMENT AUTHORITY.**—The Secretary may
5 make appropriate adjustments in the loan rates for pea-
6 nuts for differences in grade, type, quality, location, and
7 other factors.

8 (b) **MANNER OF ADJUSTMENT.**—The adjustments
9 under subsection (a) shall, to the maximum extent prac-
10 ticable, be made in such a manner that the average loan
11 level for peanuts will, on the basis of the anticipated inci-
12 dence of the factors, be equal to the level of support deter-
13 mined in accordance with this subtitle and subtitles B
14 through E.

15 (c) **ADJUSTMENT ON COUNTY BASIS.**—

16 (1) **IN GENERAL.**—The Secretary may establish
17 loan rates for a crop of peanuts for producers in in-
18 dividual counties in a manner that results in the
19 lowest loan rate being 95 percent of the national av-
20 erage loan rate, if those loan rates do not result in
21 an increase in outlays.

22 (2) **PROHIBITION.**—Adjustments under this
23 subsection shall not result in an increase in the na-
24 tional average loan rate for any year.

1 **Subtitle B—Average Crop Revenue**
2 **Program**

3 **SEC. 1401. AVAILABILITY OF AVERAGE CROP REVENUE**
4 **PAYMENTS.**

5 (a) AVAILABILITY AND ELECTION OF ALTERNATIVE
6 APPROACH.—

7 (1) AVAILABILITY OF AVERAGE CROP REVENUE
8 PAYMENTS.—As an alternative to receiving pay-
9 ments or loans under subtitle A with respect to all
10 covered commodities and peanuts on a farm (other
11 than loans for graded and nongraded wool, mohair,
12 and honey), the Secretary shall give the producers
13 on the farm an opportunity to elect to instead re-
14 ceive average crop revenue payments under this sec-
15 tion for each of the 2010 through 2012 crop years.

16 (2) ELECTION; TIME FOR ELECTION.—

17 (A) IN GENERAL.—The Secretary shall
18 provide notice to producers regarding the op-
19 portunity to make the election described in
20 paragraph (1).

21 (B) NOTICE REQUIREMENTS.—The notice
22 shall include—

23 (i) notice of the opportunity of the
24 producers on a farm to make the election;
25 and

1 (ii) information regarding the manner
2 in which the election must be made and
3 the time periods and manner in which no-
4 tice of the election must be submitted to
5 the Secretary.

6 (3) ELECTION DEADLINE.—Within the time pe-
7 riod and in the manner prescribed pursuant to para-
8 graph (2), the producers on a farm shall submit to
9 the Secretary notice of the election made under
10 paragraph (1).

11 (4) EFFECT OF FAILURE TO MAKE ELEC-
12 TION.—If the producers on a farm fail to make the
13 election under paragraph (1) or fail to timely notify
14 the Secretary of the election made, as required by
15 paragraph (3), the producers shall be deemed to
16 have made the election to receive payments and
17 loans under subtitle A for all covered commodities
18 and peanuts on the farm for the applicable crop
19 year.

20 (b) PAYMENTS REQUIRED.—

21 (1) IN GENERAL.—In the case of producers on
22 a farm who make the election under subsection (a)
23 to receive average crop revenue payments, for any of
24 the 2010 through 2012 crop years for all covered
25 commodities and peanuts, the Secretary shall make

1 average crop revenue payments available to the pro-
2 ducers on a farm in accordance with this subsection.

3 (2) **FIXED PAYMENT COMPONENT.**—Subject to
4 paragraph (3), in the case of producers on a farm
5 described in paragraph (1), the Secretary shall make
6 average crop revenue payments available to the pro-
7 ducers on a farm for each crop year in an amount
8 equal to not less than the product obtained by multi-
9 plying—

10 (A) \$15 per acre; and

11 (B) the lesser of—

12 (i) the quantity of base acres on the
13 farm for all covered commodities and pea-
14 nuts (as adjusted in accordance with the
15 terms and conditions of section 1101 or
16 1302, as determined by the Secretary); or

17 (ii) the average of the acreage planted
18 on the farm to all covered commodities and
19 peanuts during the 2002 through 2007
20 crop years.

21 (3) **REVENUE COMPONENT.**—The Secretary
22 shall increase the amount of the average crop rev-
23 enue payments available to the producers on a farm
24 in a State for a crop year if—

1 (A) the actual State revenue for the crop
2 year for the covered commodity or peanuts in
3 the State determined under subsection (c); is
4 less than

5 (B) the average crop revenue program
6 guarantee for the crop year for the covered
7 commodity or peanuts in the State determined
8 under subsection (d).

9 (4) TIME FOR PAYMENTS.—In the case of each
10 of the 2010 through 2012 crop years, the Secretary
11 shall make average crop revenue payments beginning
12 October 1, or as soon as practicable thereafter, after
13 the end of the applicable marketing year for the cov-
14 ered commodity or peanuts.

15 (c) ACTUAL STATE REVENUE.—

16 (1) IN GENERAL.—For purposes of subsection
17 (b)(3)(A), the amount of the actual State revenue
18 for a crop year of a covered commodity shall equal
19 the product obtained by multiplying—

20 (A) the actual State yield for each planted
21 acre for the crop year for the covered com-
22 modity or peanuts determined under paragraph
23 (2); and

24 (B) the average crop revenue program har-
25 vest price for the crop year for the covered com-

1 modity or peanuts determined under paragraph
2 (3).

3 (2) ACTUAL STATE YIELD.—For purposes of
4 paragraph (1)(A) and subsection (d)(1)(A), the ac-
5 tual State yield for each planted acre for a crop year
6 for a covered commodity or peanuts in a State shall
7 equal (as determined by the Secretary)—

8 (A) the quantity of the covered commodity
9 or peanuts that is produced in the State during
10 the crop year; divided by

11 (B) the number of acres that are planted
12 to the covered commodity or peanuts in the
13 State during the crop year.

14 (3) AVERAGE CROP REVENUE PROGRAM HAR-
15 VEST PRICE.—

16 (A) IN GENERAL.—For purposes of para-
17 graph (1)(B), subject to subparagraph (B), the
18 average crop revenue program harvest price for
19 a crop year for a covered commodity or peanuts
20 in a State shall equal the harvest price that is
21 used to calculate revenue under revenue cov-
22 erage plans that are offered for the crop year
23 for the covered commodity or peanuts in the
24 State under the Federal Crop Insurance Act (7
25 U.S.C. 1501 et seq.).

1 (B) ASSIGNED PRICE.—If the Secretary
2 cannot establish the harvest price for a crop
3 year for a covered commodity or peanuts in a
4 State in accordance with subparagraph (A), the
5 Secretary shall assign a price for the covered
6 commodity or peanuts in the State on the basis
7 of comparable price data.

8 (d) AVERAGE CROP REVENUE PROGRAM GUAR-
9 ANTEE.—

10 (1) IN GENERAL.—The average crop revenue
11 program guarantee for a crop year for a covered
12 commodity or peanuts in a State shall equal 90 per-
13 cent of the product obtained by multiplying—

14 (A) the expected State yield for each plant-
15 ed acre for the crop year for the covered com-
16 modity or peanuts in a State determined under
17 paragraph (2); and

18 (B) the average crop revenue program pre-
19 planting price for the crop year for the covered
20 commodity or peanuts determined under para-
21 graph (3).

22 (2) EXPECTED STATE YIELD.—

23 (A) IN GENERAL.—For purposes of para-
24 graph (1)(A), subject to subparagraph (B), the
25 expected State yield for each planted acre for a

1 crop year for a covered commodity or peanuts
2 in a State shall equal the projected yield for the
3 crop year for the covered commodity or peanuts
4 in the State, based on a linear regression trend
5 of the yield per acre planted to the covered
6 commodity or peanuts in the State during the
7 1980 through 2006 period using National Agri-
8 cultural Statistics Service data.

9 (B) ASSIGNED YIELD.—If the Secretary
10 cannot establish the expected State yield for
11 each planted acre for a crop year for a covered
12 commodity or peanuts in a State in accordance
13 with subparagraph (A) or if the linear regres-
14 sion trend of the yield per acre planted to the
15 covered commodity or peanuts in the State (as
16 determined under subparagraph (A)) is nega-
17 tive, the Secretary shall assign an expected
18 State yield for each planted acre for the crop
19 year for the covered commodity or peanuts in
20 the State on the basis of expected State yields
21 for planted acres for the crop year for the cov-
22 ered commodity or peanuts in similar States.

23 (3) AVERAGE CROP REVENUE PROGRAM PRE-
24 PLANTING PRICE.—

1 (A) IN GENERAL.—For purposes of para-
2 graph (1)(B), subject to subparagraphs (B) and
3 (C), the average crop revenue program pre-
4 planting price for a crop year for a covered
5 commodity or peanuts in a State shall equal the
6 average price that is used to calculate revenue
7 under revenue coverage plans that are offered
8 for the covered commodity in the State under
9 the Federal Crop Insurance Act (7 U.S.C. 1501
10 et seq.) for the crop year and the preceding 2
11 crop years.

12 (B) ASSIGNED PRICE.—If the Secretary
13 cannot establish the pre-planting price for a
14 crop year for a covered commodity or peanuts
15 in a State in accordance with subparagraph
16 (A), the Secretary shall assign a price for the
17 covered commodity or peanuts in the State on
18 the basis of comparable price data.

19 (C) MINIMUM AND MAXIMUM PRICE.—In
20 the case of each of the 2011 through 2012 crop
21 years, the average crop revenue program pre-
22 planting price for a crop year for a covered
23 commodity or peanuts under subparagraph (A)
24 shall not decrease or increase more than 15

1 percent from the pre-planting price for the pre-
2 ceding year.

3 (e) PAYMENT AMOUNT.—If average crop revenue
4 payments are required to be paid for any of the 2010
5 through 2012 crop years of a covered commodity or pea-
6 nuts under subsection (b)(3), in addition to the amount
7 payable under subsection (b)(2), the amount of the aver-
8 age crop revenue payment to be paid to the producers on
9 the farm for the crop year under this section shall be in-
10 creased by an amount equal to the product obtained by
11 multiplying—

12 (1) the difference between—

13 (A) the average crop revenue program
14 guarantee for the crop year for the covered
15 commodity or peanuts in the State determined
16 under subsection (d); and

17 (B) the actual State revenue from the crop
18 year for the covered commodity or peanuts in
19 the State determined under subsection (c);

20 (2) the acreage planted or considered planted to
21 the covered commodity or peanuts for harvest on the
22 farm in the crop year;

23 (3) the quotient obtained by dividing—

24 (A)(i) the yield used to calculate crop in-
25 surance coverage for the commodity or peanuts

1 on the farm under the Federal Crop Insurance
2 Act (7 U.S.C. 1501 et seq.) (commonly referred
3 to as “actual production history”); or

4 (ii) if actual production history for the
5 commodity or peanuts on the farm is not avail-
6 able, a comparable yield as determined by the
7 Secretary; by

8 (B) the expected State yield for the crop
9 year, as determined under subsection (d)(2);
10 and

11 (4) 90 percent.

12 (f) RECOURSE LOANS.—For each of the 2010
13 through 2012 crops of a covered commodity or peanuts,
14 the Secretary shall make available to producers on a farm
15 who elect to receive payments under this section recourse
16 loans, as determined by the Secretary, on any production
17 of the covered commodity.

18 **SEC. 1402. PRODUCER AGREEMENT AS CONDITION OF AV-**
19 **ERAGE CROP REVENUE PAYMENTS.**

20 (a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

21 (1) REQUIREMENTS.—Before the producers on
22 a farm may receive average crop revenue payments
23 with respect to the farm, the producers shall agree,
24 and in the case of subparagraph (C), the Farm
25 Service Agency shall certify, during the crop year for

1 which the payments are made and in exchange for
2 the payments—

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

7 (B) to comply with applicable wetland pro-
8 tection requirements under subtitle C of title
9 XII of that Act (16 U.S.C. 3821 et seq.); and

10 (C) that the individuals or entities receiv-
11 ing payments are producers;

12 (D) to use the land on the farm, in a
13 quantity equal to the attributable base acres for
14 the farm and any base acres for peanuts for the
15 farm under part III of subtitle A, for an agri-
16 cultural or conserving use, and not for a non-
17 agricultural commercial, industrial, or residen-
18 tial use (including land subdivided and devel-
19 oped into residential units or other nonfarming
20 uses, or that is otherwise no longer intended to
21 be used in conjunction with a farming oper-
22 ation), as determined by the Secretary; and

23 (E) to effectively control noxious weeds
24 and otherwise maintain the land in accordance
25 with sound agricultural practices, as determined

1 by the Secretary, if the agricultural or con-
2 serving use involves the noncultivation of any
3 portion of the land referred to in subparagraph
4 (D).

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

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

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

16 (1) TERMINATION.—

17 (A) IN GENERAL.—Except as provided in
18 paragraph (2), a transfer of (or change in) the
19 interest of the producers on a farm for which
20 average crop revenue payments are made shall
21 result in the termination of the payments, un-
22 less the transferee or owner of the farm agrees
23 to assume all obligations under subsection (a).

1 (B) EFFECTIVE DATE.—The termination
2 shall take effect on the date determined by the
3 Secretary.

4 (2) EXCEPTION.—If a producer entitled to an
5 average crop revenue payment dies, becomes incom-
6 petent, or is otherwise unable to receive the pay-
7 ment, the Secretary shall make the payment, in ac-
8 cordance with rules issued by the Secretary.

9 (c) ACREAGE REPORTS.—

10 (1) IN GENERAL.—As a condition on the receipt
11 of any benefits under this subtitle, the Secretary
12 shall require producers on a farm to submit to the
13 Secretary annual acreage reports with respect to all
14 cropland on the farm.

15 (2) PENALTIES.—No penalty with respect to
16 benefits under subtitle shall be assessed against the
17 producers on a farm for an inaccurate acreage re-
18 port unless the producers on the farm knowingly and
19 willfully falsified the acreage report.

20 (d) TENANTS AND SHARECROPPERS.—In carrying
21 out this subtitle, the Secretary shall provide adequate safe-
22 guards to protect the interests of tenants and share-
23 croppers.

24 (e) SHARING OF PAYMENTS.—The Secretary shall
25 provide for the sharing of average crop revenue payments

1 among the producers on a farm on a fair and equitable
2 basis.

3 (f) AUDIT AND REPORT.—Each year, to ensure, to
4 the maximum extent practicable, that payments are re-
5 ceived only by producers, the Secretary shall—

6 (1) conduct an audit of average crop revenue
7 payments; and

8 (2) submit to Congress a report that describes
9 the results of that audit.

10 **SEC. 1403. PLANTING FLEXIBILITY.**

11 (a) PERMITTED CROPS.—Subject to subsection (b),
12 any commodity or crop may be planted on base acres on
13 a farm for which the producers on a farm elect to receive
14 average crop revenue payments (referred to in this section
15 as “base acres”).

16 (b) LIMITATIONS REGARDING CERTAIN COMMOD-
17 ITIES.—

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

22 (2) TREATMENT OF TREES AND OTHER
23 PERENNIALS.—The planting of an agricultural com-
24 modity specified in paragraph (3) that is produced

1 on a tree or other perennial plant shall be prohibited
2 on base acres.

3 (3) COVERED AGRICULTURAL COMMODITIES.—
4 Paragraphs (1) and (2) apply to the following agri-
5 cultural commodities:

6 (A) Fruits.

7 (B) Vegetables (other than mung beans
8 and pulse crops).

9 (C) Wild rice.

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

13 (1) in any region in which there is a history of
14 double-cropping of covered commodities with agricul-
15 tural commodities specified in subsection (b)(3), as
16 determined by the Secretary, in which case the dou-
17 ble-cropping shall be permitted;

18 (2) on a farm that the Secretary determines
19 has a history of planting agricultural commodities
20 specified in subsection (b)(3) on base acres, except
21 that average crop revenue payments shall be reduced
22 by an acre for each acre planted to such an agricul-
23 tural commodity; or

24 (3) by the producers on a farm that the Sec-
25 retary determines has an established planting his-

1 tory of a specific agricultural commodity specified in
2 subsection (b)(3), except that—

3 (A) the quantity planted may not exceed
4 the average annual planting history of such ag-
5 ricultural commodity by the producers on the
6 farm in the 1991 through 1995 or 1998
7 through 2001 crop years (excluding any crop
8 year in which no plantings were made), as de-
9 termined by the Secretary; and

10 (B) average crop revenue payments shall
11 be reduced by an acre for each acre planted to
12 such agricultural commodity.

13 (d) **PLANTING TRANSFERABILITY PILOT PROJECT.**—
14 Producers on a farm that elect to receive average crop rev-
15 enue payments shall be eligible to participate in the pilot
16 program established under section 1106(d) under the
17 same terms and conditions as producers that receive direct
18 payments and counter-cyclical payments.

19 **SEC. 1404. IMPACT ON CROP INSURANCE PROGRAM.**

20 (a) **RATING.**—

21 (1) **IN GENERAL.**—The Secretary, acting
22 through the Administrator of the Risk Management
23 Agency, shall identify and carry out such actions as
24 are necessary to ensure, to the maximum extent
25 practicable, that all policies and plans of insurance

1 under the Federal Crop Insurance Act (7 U.S.C.
2 1501 et seq.) are properly rated to take into account
3 a rebalancing of risk as a result of the enactment of
4 this title and the amendments made by this title.

5 (2) IMPLEMENTATION.—Not later than 1 year
6 after the date of enactment of this Act, the Sec-
7 retary shall carry out the actions identified under
8 paragraph (1).

9 (b) PREVENTION OF DUPLICATION.—

10 (1) IN GENERAL.—The Administrator of the
11 Risk Management Agency and Administrator of the
12 Farm Service Agency shall work together to ensure,
13 to the maximum extent practicable, in implementing
14 this title and the Federal crop insurance program
15 authorized under the Federal Crop Insurance Act (7
16 U.S.C. 1501 et seq.) that producers on a farm are
17 not compensated through the average crop revenue
18 program established under this subtitle and under
19 the Federal Crop Insurance Act (7 U.S.C. 1501 et
20 seq.) for the same acreage.

21 (2) REDUCTION.—

22 (A) IN GENERAL.—If a payment is issued
23 through the average crop revenue program es-
24 tablished under this subtitle before a crop in-
25 surance indemnity is paid, the crop insurance

1 indemnity shall be reduced by the amount of
2 the average crop revenue program payments for
3 the covered commodity.

4 (B) PRIORITY.—If the producer on the
5 farm has already received a crop insurance in-
6 demnity for the covered commodity, the average
7 crop revenue payment shall first be used to re-
8 imburse the Federal Crop Insurance Corpora-
9 tion, to the maximum extent practicable, to off-
10 set the crop insurance indemnity.

11 (C) CROP YEARS.—This subsection applies
12 beginning with the 2010 crop year.

13 **Subtitle C—Sugar**

14 **SEC. 1501. SUGAR PROGRAM.**

15 Section 156 of the Federal Agriculture Improvement
16 and Reform Act of 1996 (7 U.S.C. 7272) is amended to
17 read as follows:

18 **“SEC. 156. SUGAR PROGRAM.**

19 “(a) SUGARCANE.—The Secretary shall make loans
20 available to processors of domestically grown sugarcane at
21 a rate equal to—

22 “(1) 18.00 cents per pound for raw cane sugar
23 for the 2008 crop year;

24 “(2) 18.25 cents per pound for raw cane sugar
25 for the 2009 crop year;

1 “(3) 18.50 cents per pound for raw cane sugar
2 for the 2010 crop year;

3 “(4) 18.75 cents per pound for raw cane sugar
4 for the 2011 crop year; and

5 “(5) 19.00 cents per pound for raw cane sugar
6 for the 2012 crop year.

7 “(b) SUGAR BEETS.—The Secretary shall make loans
8 available to processors of domestically grown sugar beets
9 at a rate per pound for refined beet sugar that is equal
10 to 128.5 percent of the loan rate per pound of raw cane
11 sugar for the applicable crop year under subsection (a).

12 “(c) TERM OF LOANS.—

13 “(1) IN GENERAL.—A loan under this section
14 during any fiscal year shall be made available not
15 earlier than the beginning of the fiscal year and
16 shall mature at the earlier of—

17 “(A) the end of the 9-month period begin-
18 ning on the first day of the first month after
19 the month in which the loan is made; or

20 “(B) the end of the fiscal year in which the
21 loan is made.

22 “(2) SUPPLEMENTAL LOANS.—In the case of a
23 loan made under this section in the last 3 months
24 of a fiscal year, the processor may repledge the

1 sugar as collateral for a second loan in the subse-
2 quent fiscal year, except that the second loan shall—

3 “(A) be made at the loan rate in effect at
4 the time the second loan is made; and

5 “(B) mature in 9 months less the quantity
6 of time that the first loan was in effect.

7 “(d) LOAN TYPE; PROCESSOR ASSURANCES.—

8 “(1) NONRECOURSE LOANS.—The Secretary
9 shall carry out this section through the use of non-
10 recourse loans.

11 “(2) PROCESSOR ASSURANCES.—

12 “(A) IN GENERAL.—The Secretary shall
13 obtain from each processor that receives a loan
14 under this section such assurances as the Sec-
15 retary considers adequate to ensure that the
16 processor will provide payments to producers
17 that are proportional to the value of the loan
18 received by the processor for the sugar beets
19 and sugarcane delivered by producers to the
20 processor.

21 “(B) MINIMUM PAYMENTS.—

22 “(i) IN GENERAL.—Subject to clause
23 (ii), the Secretary may establish appro-
24 priate minimum payments for purposes of
25 this paragraph.

1 “(ii) LIMITATION.—In the case of
2 sugar beets, the minimum payment estab-
3 lished under clause (i) shall not exceed the
4 rate of payment provided for under the ap-
5 plicable contract between a sugar beet pro-
6 ducer and a sugar beet processor.

7 “(3) ADMINISTRATION.—The Secretary may
8 not impose or enforce any prenotification require-
9 ment, or similar administrative requirement not oth-
10 erwise in effect on the date of enactment of the
11 Food and Energy Security Act of 2007, that has the
12 effect of preventing a processor from electing to for-
13 feit the loan collateral (of an acceptable grade and
14 quality) on the maturity of the loan.

15 “(e) LOANS FOR IN-PROCESS SUGAR.—

16 “(1) DEFINITION OF IN-PROCESS SUGARS AND
17 SYRUPS.—In this subsection, the term ‘in-process
18 sugars and syrups’ does not include raw sugar, liq-
19 uid sugar, invert sugar, invert syrup, or other fin-
20 ished product that is otherwise eligible for a loan
21 under subsection (a) or (b).

22 “(2) AVAILABILITY.—The Secretary shall make
23 nonrecourse loans available to processors of a crop
24 of domestically grown sugarcane and sugar beets for
25 in-process sugars and syrups derived from the crop.

1 “(3) LOAN RATE.—The loan rate shall be equal
2 to 80 percent of the loan rate applicable to raw cane
3 sugar or refined beet sugar, as determined by the
4 Secretary on the basis of the source material for the
5 in-process sugars and syrups.

6 “(4) FURTHER PROCESSING ON FORFEITURE.—

7 “(A) IN GENERAL.—As a condition of the
8 forfeiture of in-process sugars and syrups serv-
9 ing as collateral for a loan under paragraph (2),
10 the processor shall, within such reasonable time
11 period as the Secretary may prescribe and at no
12 cost to the Commodity Credit Corporation, con-
13 vert the in-process sugars and syrups into raw
14 cane sugar or refined beet sugar of acceptable
15 grade and quality for sugars eligible for loans
16 under subsection (a) or (b).

17 “(B) TRANSFER TO CORPORATION.—Once
18 the in-process sugars and syrups are fully proc-
19 essed into raw cane sugar or refined beet sugar,
20 the processor shall transfer the sugar to the
21 Commodity Credit Corporation.

22 “(C) PAYMENT TO PROCESSOR.—On trans-
23 fer of the sugar, the Secretary shall make a
24 payment to the processor in an amount equal to
25 the amount obtained by multiplying—

1 “(i) the difference between—

2 “(I) the loan rate for raw cane
3 sugar or refined beet sugar, as appro-
4 priate; and

5 “(II) the loan rate the processor
6 received under paragraph (3); by

7 “(ii) the quantity of sugar transferred
8 to the Secretary.

9 “(5) LOAN CONVERSION.—If the processor does
10 not forfeit the collateral as described in paragraph
11 (4), but instead further processes the in-process sug-
12 ars and syrups into raw cane sugar or refined beet
13 sugar and repays the loan on the in-process sugars
14 and syrups, the processor may obtain a loan under
15 subsection (a) or (b) for the raw cane sugar or re-
16 fined beet sugar, as appropriate.

17 “(6) TERM OF LOAN.—The term of a loan
18 made under this subsection for a quantity of in-proc-
19 ess sugars and syrups, when combined with the term
20 of a loan made with respect to the raw cane sugar
21 or refined beet sugar derived from the in-process
22 sugars and syrups, may not exceed 9 months, con-
23 sistent with subsection (d).

24 “(f) FEEDSTOCK FLEXIBILITY PROGRAM FOR BIO-
25 ENERGY PRODUCERS.—

1 “(1) DEFINITIONS.—In this subsection:

2 “(A) BIOENERGY.—The term ‘bioenergy’
3 means fuel grade ethanol and other biofuel.

4 “(B) BIOENERGY PRODUCER.—The term
5 ‘bioenergy producer’ means a producer of bio-
6 energy that uses an eligible commodity to
7 produce bioenergy under this subsection.

8 “(C) ELIGIBLE COMMODITY.—The term
9 ‘eligible commodity’ means a form of raw or re-
10 fined sugar or in-process sugar that is eligi-
11 ble—

12 “(i) to be marketed in the United
13 States for human consumption; or

14 “(ii) to be used for the extraction of
15 sugar for human consumption.

16 “(D) ELIGIBLE ENTITY.—The term ‘eligi-
17 ble entity’ means an entity located in the
18 United States that markets an eligible com-
19 modity in the United States.

20 “(2) FEEDSTOCK FLEXIBILITY PROGRAM.—

21 “(A) PURCHASES AND SALES.—For each
22 of fiscal years 2008 through 2012, the Sec-
23 retary shall purchase eligible commodities from
24 eligible entities and sell such commodities to
25 bioenergy producers for the purpose of pro-

1 ducing bioenergy in a manner that ensures that
2 this section is operated at no cost to the Fed-
3 eral Government and avoids forfeitures to the
4 Commodity Credit Corporation.

5 “(B) COMPETITIVE PROCEDURES.—In car-
6 rying out the purchases and sales required
7 under subparagraph (A), the Secretary shall, to
8 the maximum extent practicable, use competi-
9 tive procedures, including the receiving, offer-
10 ing, and accepting of bids, when entering into
11 contracts with eligible entities and bioenergy
12 producers, provided that the procedures are
13 consistent with the purposes of subparagraph
14 (A).

15 “(C) LIMITATION.—The purchase and sale
16 of eligible commodities under subparagraph (A)
17 shall only be made for a fiscal year for which
18 the purchases and sales are necessary to ensure
19 that the program under this section is operated
20 at no cost to the Federal Government by avoid-
21 ing forfeitures to the Commodity Credit Cor-
22 poration.

23 “(3) NOTICE.—

24 “(A) IN GENERAL.—As soon as practicable
25 after the date of enactment of the Food and

1 Energy Security Act of 2007, and each Sep-
2 tember 1 thereafter through fiscal year 2012,
3 the Secretary shall provide notice to eligible en-
4 tities and bioenergy producers of the quantity
5 of eligible commodities that shall be made avail-
6 able for purchase and sale for the subsequent
7 fiscal year under this subsection.

8 “(B) REESTIMATES.—Not later than the
9 first day of each of the second through fourth
10 quarters of each of fiscal years 2008 through
11 2012, the Secretary shall reestimate the quan-
12 tity of eligible commodities determined under
13 subparagraph (A), and provide notice and make
14 purchases and sales based on the reestimates.

15 “(4) COMMODITY CREDIT CORPORATION INVEN-
16 TORY.—To the extent that an eligible commodity is
17 owned and held in inventory by the Commodity
18 Credit Corporation (accumulated pursuant to the
19 program under this section), the Secretary shall sell
20 the eligible commodity to bioenergy producers under
21 this subsection.

22 “(5) TRANSFER RULE; STORAGE FEES.—

23 “(A) GENERAL TRANSFER RULE.—Except
24 as provided in subparagraph (C), the Secretary
25 shall ensure that bioenergy producers that pur-

1 entering into contracts with eligible entities
2 to purchase the eligible commodities to be
3 used to satisfy the contracts entered into
4 with the bioenergy producers.

5 “(ii) SPECIAL TRANSFER RULE.—If
6 the Secretary makes a sale and purchase
7 referred to in clause (i), the Secretary shall
8 ensure that the bioenergy producer that
9 purchased eligible commodities takes pos-
10 session of the eligible commodities not
11 later than 30 calendar days after the date
12 on which the Commodity Credit Corpora-
13 tion purchases the eligible commodities.

14 “(6) RELATION TO OTHER LAWS.—If sugar
15 that is subject to a marketing allotment under part
16 VII of subtitle B of title III of the Agricultural Ad-
17 justment Act of 1938 (7 U.S.C. 1359aa et seq.) is
18 the subject of a payment under this subsection, the
19 sugar shall be considered marketed and shall count
20 against the allocation of a processor of an allotment
21 under that part, as applicable.

22 “(7) FUNDING.—The Secretary shall use the
23 funds, facilities, and authorities of the Commodity
24 Credit Corporation, including the use of such sums
25 as are necessary, to carry out this subsection.

1 “(g) AVOIDING FORFEITURES; CORPORATION INVEN-
2 TORY DISPOSITION.—

3 “(1) IN GENERAL.—Subject to subsection
4 (d)(3), to the maximum extent practicable, the Sec-
5 retary shall operate the program established under
6 this section at no cost to the Federal Government by
7 avoiding the forfeiture of sugar to the Commodity
8 Credit Corporation.

9 “(2) INVENTORY DISPOSITION.—

10 “(A) IN GENERAL.—To carry out para-
11 graph (1), the Commodity Credit Corporation
12 may accept bids to obtain raw cane sugar or re-
13 fined beet sugar in the inventory of the Com-
14 modity Credit Corporation from (or otherwise
15 make available such commodities, on appro-
16 priate terms and conditions, to) processors of
17 sugarcane and processors of sugar beets (acting
18 in conjunction with the producers of the sugar-
19 cane or sugar beets processed by the proc-
20 essors) in return for the reduction of production
21 of raw cane sugar or refined beet sugar, as ap-
22 propriate.

23 “(B) BIOENERGY FEEDSTOCK.—Sugar
24 beets or sugarcane planted on acreage diverted
25 from production to achieve any reduction re-

1 required under subparagraph (A) may not be
2 used for any commercial purpose other than as
3 a bioenergy feedstock.

4 “(C) ADDITIONAL AUTHORITY.—The au-
5 thority provided under this paragraph is in ad-
6 dition to any authority of the Commodity Credit
7 Corporation under any other law.

8 “(h) INFORMATION REPORTING.—

9 “(1) DUTY OF PROCESSORS AND REFINERS TO
10 REPORT.—A sugarcane processor, cane sugar re-
11 finer, and sugar beet processor shall furnish the Sec-
12 retary, on a monthly basis, such information as the
13 Secretary may require to administer sugar pro-
14 grams, including the quantity of purchases of sugarcane,
15 sugar beets, and sugar, and production, impor-
16 tation, distribution, and stock levels of sugar.

17 “(2) DUTY OF PRODUCERS TO REPORT.—

18 “(A) PROPORTIONATE SHARE STATES.—As
19 a condition of a loan made to a processor for
20 the benefit of a producer, the Secretary shall
21 require each producer of sugarcane located in a
22 State (other than the Commonwealth of Puerto
23 Rico) in which there are in excess of 250 pro-
24 ducers of sugarcane to report, in the manner
25 prescribed by the Secretary, the sugarcane

1 yields and acres planted to sugarcane of the
2 producer.

3 “(B) OTHER STATES.—The Secretary may
4 require each producer of sugarcane or sugar
5 beets not covered by subparagraph (A) to re-
6 port, in a manner prescribed by the Secretary,
7 the yields of, and acres planted to, sugarcane or
8 sugar beets, respectively, of the producer.

9 “(3) DUTY OF IMPORTERS TO REPORT.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), the Secretary shall require
12 an importer of sugars, syrups, or molasses to be
13 used for human consumption or to be used for
14 the extraction of sugar for human consumption
15 to report, in the manner prescribed by the Sec-
16 retary, the quantities of the products imported
17 by the importer and the sugar content or equiv-
18 alent of the products.

19 “(B) TARIFF-RATE QUOTAS.—Subpara-
20 graph (A) shall not apply to sugars, syrups, or
21 molasses that are within the quantities of tariff-
22 rate quotas that are subject to the lower rate
23 of duties.

24 “(4) INFORMATION ON MEXICO.—

1 “(A) COLLECTION.—The Secretary shall
2 collect—

3 “(i) information of the production,
4 consumption, stocks, and trade of sugar in
5 Mexico, including United States exports of
6 sugar to Mexico; and

7 “(ii) publicly-available information on
8 Mexican production, consumption, and
9 trade of high fructose corn syrups to Mex-
10 ico.

11 “(B) PUBLICATION.—The data collected
12 under subparagraph (A) shall be published in
13 each edition of the World Agricultural Supply
14 and Demand Estimates.

15 “(5) PENALTY.—Any person willfully failing or
16 refusing to furnish the information required under
17 paragraph (1), (2), or (3), or furnishing willfully any
18 false information, shall be subject to a civil penalty
19 of not more than \$10,000 for each such violation.

20 “(6) MONTHLY REPORTS.—Taking into consid-
21 eration the information received under this sub-
22 section, the Secretary shall publish on a monthly
23 basis composite data on production, imports, dis-
24 tribution, and stock levels of sugar.

1 “(i) SUBSTITUTION OF REFINED SUGAR.—For pur-
2 poses of Additional U.S. Note 6 to chapter 17 of the Har-
3 monized Tariff Schedule of the United States and the re-
4 export programs and polyhydric alcohol program adminis-
5 tered by the Secretary, all refined sugars (whether derived
6 from sugar beets or sugarcane) produced by cane sugar
7 refineries and beet sugar processors shall be fully substi-
8 tutable for the export of sugar and sugar-containing prod-
9 ucts under those programs.

10 “(j) EFFECTIVE PERIOD.—

11 “(1) IN GENERAL.—This section shall be effec-
12 tive only for the 2008 through 2012 crops of sugar
13 beets and sugarcane.

14 “(2) TRANSITION.—The Secretary shall make
15 loans for raw cane sugar and refined beet sugar
16 available for the 2007 crop year on the terms and
17 conditions provided in this section as in effect on the
18 day before the date of enactment of the Food and
19 Energy Security Act of 2007.”.

20 **SEC. 1502. STORAGE FACILITY LOANS.**

21 Section 1402(c) of the Farm Security and Rural In-
22 vestment Act of 2002 (7 U.S.C. 7971(c)) is amended—

23 (1) in paragraph (1), by striking “and” at the
24 end;

1 (2) by redesignating paragraph (2) as para-
2 graph (3);

3 (3) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) not include any penalty for prepayment”;
6 and

7 (4) in paragraph (3) (as redesignated by para-
8 graph (2)), by inserting “other” after “on such”.

9 **SEC. 1503. COMMODITY CREDIT CORPORATION STORAGE**
10 **PAYMENTS.**

11 Subtitle E of the Federal Agriculture Improvement
12 and Reform Act of 1996 (7 U.S.C. 7281 et seq.) is amend-
13 ed by adding at the end the following:

14 **“SEC. 167. COMMODITY CREDIT CORPORATION STORAGE**
15 **PAYMENTS.**

16 “(a) INITIAL CROP YEARS.—Notwithstanding any
17 other provision of law, for each of the 2008 through 2011
18 crop years, the Commodity Credit Corporation shall estab-
19 lish rates for the storage of forfeited sugar in an amount
20 that is not less than—

21 “(1) in the case of refined sugar, 15 cents per
22 hundredweight of refined sugar per month; and

23 “(2) in the case of raw cane sugar, 10 cents per
24 hundredweight of raw cane sugar per month.

1 “(b) SUBSEQUENT CROP YEARS.—For each of the
2 2012 and subsequent crop years, the Commodity Credit
3 Corporation shall establish rates for the storage of for-
4 feited sugar in the same manner as was used on the day
5 before the date of enactment of this section.”.

6 **SEC. 1504. FLEXIBLE MARKETING ALLOTMENTS FOR**
7 **SUGAR.**

8 (a) DEFINITIONS.—Section 359a of the Agricultural
9 Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

10 (1) by redesignating paragraphs (2) through

11 (4) as paragraphs (3) through (5), respectively; and

12 (2) by inserting after paragraph (1) the fol-
13 lowing:

14 “(2) MARKET.—

15 “(A) IN GENERAL.—The term ‘market’
16 means to sell or otherwise dispose of in com-
17 merce in the United States.

18 “(B) INCLUSIONS.—The term ‘market’ in-
19 cludes—

20 “(i) the forfeiture of sugar under the
21 loan program for sugar established under
22 section 156 of the Federal Agriculture Im-
23 provement and Reform Act of 1996 (7
24 U.S.C. 7272); and

1 “(ii) with respect to any integrated
2 processor and refiner, the movement of
3 raw cane sugar into the refining process.

4 “(C) **MARKETING YEAR.**—Forfeited sugar
5 described in subparagraph (B)(i) shall be con-
6 sidered to have been marketed during the crop
7 year for which a loan is made under the loan
8 program described in that subparagraph.”.

9 (b) **FLEXIBLE MARKETING ALLOTMENTS FOR**
10 **SUGAR.**—Section 359b of the Agricultural Adjustment Act
11 of 1938 (7 U.S.C. 1359bb) is amended to read as follows:

12 **“SEC. 359. FLEXIBLE MARKETING ALLOTMENTS FOR**
13 **SUGAR.**

14 “(a) **IN GENERAL.**—

15 “(1) **IN GENERAL.**—By the beginning of each
16 crop year, the Secretary shall establish for that crop
17 year appropriate allotments under section 359c for
18 the marketing by processors of sugar processed from
19 sugar cane, sugar beets, or in-process sugar (wheth-
20 er produced domestically or imported) at a level that
21 is—

22 “(A) sufficient to maintain raw and refined
23 sugar prices at a level that will result in no for-
24 feitures of sugar to the Commodity Credit Cor-
25 poration under the loan program for sugar es-

1 established under section 156 of the Federal Ag-
2 riculture Improvement and Reform Act of 1996
3 (7 U.S.C. 7272); but

4 “(B) not less than 85 percent of the esti-
5 mated quantity of sugar consumption for do-
6 mestic food use for the crop year.

7 “(2) PRODUCTS.—The Secretary may include
8 sugar products, the majority content of which is su-
9 crose for human consumption, derived from sugar-
10 cane, sugar beets, molasses, or sugar in the allot-
11 ments under paragraph (1) if the Secretary deter-
12 mines it to be appropriate for purposes of this part.

13 “(b) COVERAGE OF ALLOTMENTS.—

14 “(1) IN GENERAL.—Marketing allotments
15 under this part shall apply to the marketing by proc-
16 essors of sugar intended for domestic human food
17 use that has been processed from sugar cane, sugar
18 beets, or in-process sugar, whether produced domes-
19 tically or imported.

20 “(2) EXCEPTIONS.—Marketing allotments
21 under this part shall not apply to sugar sold—

22 “(A) to facilitate the exportation of the
23 sugar to a foreign country;

24 “(B) to enable another processor to fulfill
25 an allocation established for that processor; or

1 “(C) for uses other than domestic human
2 food use.

3 “(3) REQUIREMENT.—The sale of sugar de-
4 scribed in paragraph (2)(B) shall be—

5 “(A) made prior to May 1; and

6 “(B) reported to the Secretary.

7 “(c) PROHIBITIONS.—

8 “(1) IN GENERAL.—During all or part of any
9 crop year for which marketing allotments have been
10 established, no processor of sugar beets or sugarcane
11 shall market for domestic human food use a quantity
12 of sugar in excess of the allocation established for
13 the processor, except—

14 “(A) to enable another processor to fulfill
15 an allocation established for that other proc-
16 essor; or

17 “(B) to facilitate the exportation of the
18 sugar.

19 “(2) CIVIL PENALTY.—Any processor who
20 knowingly violates paragraph (1) shall be liable to
21 the Commodity Credit Corporation for a civil penalty
22 in an amount equal to 3 times the United States
23 market value, at the time of the commission of the
24 violation, of that quantity of sugar involved in the
25 violation.”.

1 (c) ESTABLISHMENT OF FLEXIBLE MARKETING AL-
2 LOTMENTS.—Section 359c of the Agricultural Adjustment
3 Act of 1938 (7 U.S.C. 1359cc) is amended—

4 (1) by striking subsection (b) and inserting the
5 following:

6 “(b) OVERALL ALLOTMENT QUANTITY.—

7 “(1) IN GENERAL.—The Secretary shall estab-
8 lish the overall quantity of sugar to be allotted for
9 the crop year (referred to in this part as the ‘overall
10 allotment quantity’) at a level that is—

11 “(A) sufficient to maintain raw and refined
12 sugar prices above the level that will result in
13 no forfeiture of sugar to the Commodity Credit
14 Corporation; but

15 “(B) not less than a quantity equal to 85
16 percent of the estimated sugar consumption for
17 domestic food use for the crop year.

18 “(2) ADJUSTMENT.—Subject to paragraph (1),
19 the Secretary shall adjust the overall allotment
20 quantity to maintain—

21 “(A) raw and refined sugar prices above
22 forfeiture levels to avoid the forfeiture of sugar
23 to the Commodity Credit Corporation; and

24 “(B) adequate supplies of raw and refined
25 sugar in the domestic market.”; and

1 (2) by striking subsection (h).

2 (d) ALLOCATION OF MARKETING ALLOTMENTS.—

3 Section 359d(b) of the Agricultural Adjustment Act of
4 1938 (7 U.S.C. 1359dd(b)) is amended—

5 (1) in paragraph (1)—

6 (A) in subparagraph (B), by striking “sub-
7 paragraphs (C) and (D)” and inserting “sub-
8 paragraph (C)”;

9 (B) by striking subparagraph (C);

10 (C) by redesignating subparagraphs (D)
11 through (F) as subparagraphs (C) through (E),
12 respectively;

13 (D) in subparagraph (D) (as so redesign-
14 ated)—

15 (i) in clause (i), by striking “subpara-
16 graphs (B) and (D)” and inserting “sub-
17 paragraphs (B) and (C)”;

18 (ii) in clause (iii)(II), by striking
19 “subparagraph (B) or (D)” as “subpara-
20 graph (B) or (C)”;

21 (E) in subparagraph (E) (as so redesign-
22 ated), by striking “Except as otherwise pro-
23 vided in section 359f(c)(8), if” and inserting
24 “If”; and

1 “(II) AFFILIATION.—For pur-
2 poses of subclause (I)(bb), a new en-
3 trant and a third party shall be con-
4 sidered to be affiliated if—

5 “(aa) the third party has an
6 ownership interest in the new en-
7 trant;

8 “(bb) the new entrant and
9 the third party have owners in
10 common;

11 “(cc) the third party has the
12 ability to exercise control over the
13 new entrant by organizational
14 rights, contractual rights, or any
15 other means;

16 “(dd) the third party has a
17 contractual relationship with the
18 new entrant by which the new
19 entrant will make use of the fa-
20 cilities or assets of the third
21 party; or

22 “(ee) there are any other
23 similar circumstances by which
24 the Secretary determines that the

1 new entrant and the third party
2 are affiliated.

3 “(ii) ALLOCATION FOR A NEW EN-
4 TRANT THAT HAS CONSTRUCTED A NEW
5 FACTORY OR REOPENED A FACTORY THAT
6 WAS NOT OPERATED SINCE BEFORE
7 1998.—If a new entrant constructs a new
8 sugar beet processing factory, or acquires
9 and reopens a sugar beet processing fac-
10 tory that last processed sugar beets prior
11 to the 1998 crop year and there is no allo-
12 cation currently associated with the fac-
13 tory, the Secretary shall—

14 “(I) assign an allocation for beet
15 sugar to the new entrant that pro-
16 vides a fair and equitable distribution
17 of the allocations for beet sugar so as
18 to enable the new entrant to achieve a
19 factory utilization rate comparable to
20 the factory utilization rates of other
21 similarly-situated processors; and

22 “(II) reduce the allocations for
23 beet sugar of all other processors on
24 a pro rata basis to reflect the alloca-
25 tion to the new entrant.

1 the Secretary in accordance with section
2 359i.”.

3 (e) REASSIGNMENT OF DEFICITS.—Section 359e(b)
4 of the Agricultural Adjustment Act of 1938 (7 U.S.C.
5 1359ee(b)) is amended in paragraphs (1)(D) and (2)(C),
6 by inserting “of raw cane sugar” after “imports” each
7 place it appears.

8 (f) PROVISIONS APPLICABLE TO PRODUCERS.—Sec-
9 tion 359f(c) of the Agricultural Adjustment Act of 1938
10 (7 U.S.C. 1359ff(c)) is amended—

11 (1) by striking paragraph (8);

12 (2) by redesignating paragraphs (1) through
13 (7) as paragraphs (2) through (8), respectively;

14 (3) by inserting before paragraph (2) (as so re-
15 designated) the following:

16 “(1) DEFINITION OF SEED.—

17 “(A) IN GENERAL.—In this subsection, the
18 term ‘seed’ means only those varieties of seed
19 that are dedicated to the production of sugar-
20 cane from which is produced sugar for human
21 consumption.

22 “(B) EXCLUSION.—The term ‘seed’ does
23 not include seed of a high-fiber cane variety
24 dedicated to other uses, as determined by the
25 Secretary”;

1 (4) in paragraph (3) (as so redesignated)—

2 (A) in the first sentence—

3 (i) by striking “paragraph (1)” and
4 inserting “paragraph (2)”; and

5 (ii) by inserting “sugar produced
6 from” after “quantity of”; and

7 (B) in the second sentence, by striking
8 “paragraph (7)” and inserting “paragraph
9 (8)”; and

10 (5) in paragraph (8) (as so redesignated), by
11 inserting “sugar from” after “the amount of”.

12 (g) SPECIAL RULES.—Section 359g of the Agricul-
13 tural Adjustment Act of 1938 (7 U.S.C. 1359gg) is
14 amended—

15 (1) by striking subsection (a) and inserting the
16 following:

17 “(a) TRANSFER OF ACREAGE BASE HISTORY.—

18 “(1) IN GENERAL.—For the purpose of estab-
19 lishing proportionate shares for sugarcane farms
20 under section 359f(c), the Secretary, on application
21 of any producer, with the written consent of all own-
22 ers of a farm, may transfer the acreage base history
23 of the farm to any other parcels of land of the appli-
24 cant.

25 “(2) CONVERTED ACREAGE BASE.—

1 “(A) IN GENERAL.—Sugarcane base acre-
2 age established under section 359f(c) that has
3 been or is converted to nonagricultural use on
4 or after the date of the enactment of this para-
5 graph may be transferred to other land suitable
6 for the production of sugarcane that can be de-
7 livered to a processor in a proportionate share
8 in accordance with this paragraph.

9 “(B) NOTIFICATION.—Not later than 90
10 days after the date of the enactment of this
11 paragraph and at the subsequent conversion of
12 any sugarcane base acreage to a non-
13 agricultural use, the Administrator of the Farm
14 Service Agency shall notify the 1 or more af-
15 fected landowners of the transferability of the
16 applicable sugarcane base acreage.

17 “(C) INITIAL TRANSFER PERIOD.—Not
18 later than the end of the 90-day period begin-
19 ning on the date of receipt of the notification
20 under subparagraph (B), the owner of the base
21 attributable to the acreage at the time of the
22 conversion shall transfer the base to 1 or more
23 farms owned by the owner.

24 “(D) GROWER OF RECORD.—If a transfer
25 under subparagraph (C) cannot be accom-

1 plished during the period specified in that sub-
2 paragraph, the grower of record with regard to
3 the base acreage on the date on which the acre-
4 age was converted to nonagricultural use
5 shall—

6 “(i) be notified; and

7 “(ii) have 90 days from the date of
8 the receipt of the notification to transfer
9 the base to 1 or more farms operated by
10 the grower.

11 “(E) POOL DISTRIBUTION.—

12 “(i) IN GENERAL.—If transfers under
13 subparagraphs (B) and (C) cannot be ac-
14 complished during the periods specified in
15 those subparagraphs, the county committee
16 of the Farm Service Agency for the appli-
17 cable county shall place the acreage base in
18 a pool for possible assignment to other
19 farms.

20 “(ii) ACCEPTANCE OF REQUESTS.—

21 After providing reasonable notice to farm
22 owners, operators, and growers of record
23 in the county, the county committee shall
24 accept requests from owners, operators,
25 and growers of record in the county.

1 “(iii) ASSIGNMENT.—The county com-
2 mittee shall assign the base acreage to
3 other farms in the county that are eligible
4 and capable of accepting the base acreage,
5 based on a random selection from among
6 the requests received under clause (ii).

7 “(F) STATEWIDE REALLOCATION.—

8 “(i) IN GENERAL.—Any base acreage
9 remaining unassigned after the transfers
10 and processes described in subparagraphs
11 (A) through (E) shall be made available to
12 the State committee of the Farm Service
13 Agency for allocation among the remaining
14 county committees representing counties
15 with farms eligible for assignment of the
16 base, based on a random selection.

17 “(ii) ALLOCATION.—Any county com-
18 mittee receiving base acreage under this
19 subparagraph shall allocate the base acre-
20 age to eligible farms using the process de-
21 scribed in subparagraph (E).

22 “(G) STATUS OF REASSIGNED BASE.—
23 After base acreage has been reassigned in ac-
24 cordance with this subparagraph, the base acre-
25 age shall—

1 “(i) remain on the farm; and
2 “(ii) be subject to the transfer provi-
3 sions of paragraph (1).”; and
4 (2) in subsection (d)—
5 (A) in paragraph (1)—
6 (i) by inserting “affected” before
7 “crop-share owners” each place it appears;
8 and
9 (ii) by striking “, and from the proc-
10 essing company holding the applicable allo-
11 cation for such shares,”; and
12 (B) in paragraph (2), by striking “based
13 on” and all that follows through the end of sub-
14 paragraph (B) and inserting “based on—
15 “(A) the number of acres of sugarcane
16 base being transferred; and
17 “(B) the pro rata amount of allocation at
18 the processing company holding the applicable
19 allocation that equals the contribution of the
20 grower to allocation of the processing company
21 for the sugarcane base acreage being trans-
22 ferred.”.

23 (h) APPEALS.—Section 359i of the Agricultural Ad-
24 justment Act of 1938 (7 U.S.C. 1359ii) is amended—

1 (1) in subsection (a), by inserting “or 359g(d)”
2 after “359f”; and

3 (2) by striking subsection (c).

4 (i) REALLOCATING SUGAR QUOTA IMPORT SHORT-
5 FALLS.—Section 359k of the Agricultural Adjustment Act
6 of 1938 (7 U.S.C. 1359kk) is repealed.

7 (j) ADMINISTRATION OF TARIFF RATE QUOTAS.—
8 Part VII of subtitle B of title III of the Agricultural Ad-
9 justment Act of 1938 (7 U.S.C. 1359aa) (as amended by
10 subsection (i)) is amended by adding at the end the fol-
11 lowing:

12 **“SEC. 359k. ADMINISTRATION OF TARIFF RATE QUOTAS.**

13 “(a) IN GENERAL.—Notwithstanding any other pro-
14 vision of law, at the beginning of the quota year, the Sec-
15 retary shall establish the tariff-rate quotas for raw cane
16 sugar and refined sugars (other than specialty sugar) at
17 the minimum necessary to comply with obligations under
18 international trade agreements that have been approved
19 by Congress.

20 “(b) ADJUSTMENT.—

21 “(1) BEFORE APRIL 1.—Before April 1 of each
22 fiscal year, if there is an emergency shortage of
23 sugar in the United States market that is caused by
24 a war, flood, hurricane, or other natural disaster, or
25 other similar event as determined by the Secretary—

1 “(A) the Secretary shall take action to in-
2 crease the supply of sugar in accordance with
3 sections 359c(b)(2) and 359e(b); and

4 “(B) if there is still a shortage of sugar in
5 the United States market, and marketing of do-
6 mestic sugar has been maximized, the Secretary
7 may increase the tariff-rate quota for refined
8 sugars sufficient to accommodate the supply in-
9 crease, if the further increase will not threaten
10 to result in the forfeiture of sugar pledged as
11 collateral for a loan under section 156 of the
12 Federal Agriculture Improvement and Reform
13 Act of 1996 (7 U.S.C. 7272).

14 “(2) ON OR AFTER APRIL 1.—On or after April
15 1 of each fiscal year—

16 “(A) the Secretary may take action to in-
17 crease the supply of sugar in accordance with
18 sections 359c(b)(2) and 359e(b); and

19 “(B) if there is still a shortage of sugar in
20 the United States market, and marketing of do-
21 mestic sugar has been maximized, the Secretary
22 may increase the tariff-rate quota for raw cane
23 sugar if the further increase will not threaten to
24 result in the forfeiture of sugar pledged as col-
25 lateral for a loan under section 156 of the Fed-

1 eral Agriculture Improvement and Reform Act
2 of 1996 (7 U.S.C. 7272).”.

3 (k) PERIOD OF EFFECTIVENESS.—Part VII of sub-
4 title B of title III of the Agricultural Adjustment Act of
5 1938 (7 U.S.C. 1359aa) (as amended by subsection (j))
6 is amended by adding at the end the following:

7 **“SEC. 359I. PERIOD OF EFFECTIVENESS.**

8 “(a) IN GENERAL.—This part shall be effective only
9 for the 2008 through 2012 crop years for sugar.

10 “(b) TRANSITION.—The Secretary shall administer
11 flexible marketing allotments for sugar for the 2007 crop
12 year for sugar on the terms and conditions provided in
13 this part as in effect on the day before the date of enact-
14 ment of this section.”.

15 (l) UNITED STATES MEMBERSHIP IN THE INTER-
16 NATIONAL SUGAR ORGANIZATION.—Not later than 1 year
17 after the date of enactment of this Act, the Secretary shall
18 work with the Secretary of State to restore, to the max-
19 imum extent practicable, United States membership in the
20 International Sugar Organization.

21 **SEC. 1505. SENSE OF THE SENATE REGARDING NAFTA**
22 **SUGAR COORDINATION.**

23 It is the sense of the Senate that in order to improve
24 the operations of the North American Free Trade Agree-
25 ment—

1 (1) the United States Government and the Gov-
2 ernment of Mexico should coordinate the operation
3 of their respective sugar policies; and

4 (2) the United States Government should con-
5 sult with the Government of Mexico on policies to
6 avoid disruptions of the United States sugar market
7 and the Mexican sugar market in order to maximize
8 the benefits of sugar policies for growers, processors,
9 and consumers of sugar in the United States and
10 Mexico.

11 **Subtitle D—Dairy**

12 **SEC. 1601. DAIRY PRODUCT PRICE SUPPORT PROGRAM.**

13 (a) SUPPORT ACTIVITIES.—During the period begin-
14 ning on January 1, 2008, and ending on December 31,
15 2012, the Secretary shall support the price of cheddar
16 cheese, butter, and nonfat dry milk through the purchase
17 of such products made from milk produced in the United
18 States.

19 (b) PURCHASE PRICE.—To carry out subsection (a),
20 the Secretary shall purchase cheddar cheese, butter, and
21 nonfat dry milk at prices that are equivalent to—

22 (1) in the case of cheddar cheese—

23 (A) in blocks, not less than \$1.13 per
24 pound;

1 (B) in barrels, not less than \$1.10 per
2 pound;

3 (2) in the case of butter, not less than \$1.05
4 per pound; and

5 (3) in the case of nonfat dry milk, not less than
6 \$0.80 per pound.

7 (c) UNIFORM PURCHASE PRICE.—The prices that the
8 Secretary pays for cheese, butter, or nonfat dry milk
9 under this section shall be uniform for all regions of the
10 United States.

11 (d) SALES FROM INVENTORIES.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), in the case of each commodity specified
14 in subsection (b) that is available for unrestricted
15 use in inventories of the Commodity Credit Corpora-
16 tion, the Secretary may sell the commodity at the
17 market prices prevailing for that commodity at the
18 time of sale.

19 (2) MINIMUM AMOUNT.—The sale price de-
20 scribed in paragraph (1) may not be less than 110
21 percent of the minimum purchase price specified in
22 subsection (b) for that commodity.

23 **SEC. 1602. NATIONAL DAIRY MARKET LOSS PAYMENTS.**

24 (a) DEFINITIONS.—In this section:

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

5 (2) ELIGIBLE PRODUCTION.—The term “eligi-
6 ble production” means milk produced by a producer
7 in a participating State.

8 (3) FEDERAL MILK MARKETING ORDER.—The
9 term “Federal milk marketing order” means an
10 order issued under section 8c of the Agricultural Ad-
11 justment Act (7 U.S.C. 608c), reenacted with
12 amendments by the Agricultural Marketing Agree-
13 ment Act of 1937.

14 (4) PARTICIPATING STATE.—The term “partici-
15 pating State” means each State.

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

19 (A) shares in the risk of producing milk;
20 and

21 (B) makes contributions (including land,
22 labor, management, equipment, or capital) to
23 the dairy farming operation of the individual or
24 entity that are at least commensurate with the

1 share of the individual or entity of the proceeds
2 of the operation.

3 (b) PAYMENTS.—The Secretary shall offer to enter
4 into contracts with producers on a dairy farm located in
5 a participating State under which the producers receive
6 payments on eligible production.

7 (c) AMOUNT.—Payments to a producer under this
8 section shall be calculated by multiplying (as determined
9 by the Secretary)—

10 (1) the payment quantity for the producer dur-
11 ing the applicable month established under sub-
12 section (d);

13 (2) the amount equal to—

14 (A) \$16.94 per hundredweight; less

15 (B) the Class I milk price per hundred-
16 weight in Boston under the applicable Federal
17 milk marketing order; by

18 (3)(A) for the period beginning October 1,
19 2007, and ending September 30, 2008, 34 percent;

20 (B) for the period beginning October 1, 2008,
21 and ending August 31, 2012, 45 percent; and

22 (C) for the period beginning September 1,
23 2012, and thereafter, 34 percent.

24 (d) PAYMENT QUANTITY.—

1 (1) IN GENERAL.—Subject to paragraph (2),
2 the payment quantity for a producer during the ap-
3 plicable month under this section shall be equal to
4 the quantity of eligible production marketed by the
5 producer during the month.

6 (2) LIMITATION.—

7 (A) IN GENERAL.—The payment quantity
8 for all producers on a single dairy operation for
9 which the producers receive payments under
10 subsection (b) shall not exceed—

11 (i) for the period beginning October 1,
12 2007, and ending September 30, 2008,
13 2,400,000 pounds;

14 (ii) for the period beginning October
15 1, 2008, and ending August 31, 2012,
16 4,150,000 pounds; and

17 (iii) effective beginning September 1,
18 2012, 2,400,000 pounds.

19 (B) STANDARDS.—For purposes of deter-
20 mining whether producers are producers on sep-
21 arate dairy operations or a single dairy oper-
22 ation, the Secretary shall apply the same stand-
23 ards as were applied in implementing the dairy
24 program under section 805 of the Agriculture,
25 Rural Development, Food and Drug Adminis-

1 tration, and Related Agencies Appropriations
2 Act, 2001 (as enacted into law by Public Law
3 106–387; 114 Stat. 1549A–50).

4 (3) RECONSTITUTION.—The Secretary shall en-
5 sure that a producer does not reconstitute a dairy
6 operation for the sole purpose of receiving additional
7 payments under this section.

8 (e) PAYMENTS.—A payment under a contract under
9 this section shall be made on a monthly basis not later
10 than 60 days after the last day of the month for which
11 the payment is made.

12 (f) SIGNUP.—The Secretary shall offer to enter into
13 contracts under this section during the period beginning
14 on the date that is 90 days after the date of enactment
15 of this Act and ending on September 30, 2012.

16 (g) DURATION OF CONTRACT.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), any contract entered into by producers on
19 a dairy farm under this section shall cover eligible
20 production marketed by the producers on the dairy
21 farm during the period starting with the first day of
22 month the producers on the dairy farm enter into
23 the contract and ending on September 30, 2012.

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

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

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

8 **SEC. 1603. DAIRY EXPORT INCENTIVE AND DAIRY INDEM-**
9 **NITY PROGRAMS.**

10 (a) DAIRY EXPORT INCENTIVE PROGRAM.—Section
11 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–
12 14(a)) is amended by striking “2007” and inserting
13 “2012”.

14 (b) DAIRY INDEMNITY PROGRAM.—Section 3 of Pub-
15 lic Law 90–484 (7 U.S.C. 450*l*) is amended by striking
16 “2007” and inserting “2012”.

17 **SEC. 1604. FUNDING OF DAIRY PROMOTION AND RESEARCH**
18 **PROGRAM.**

19 Section 113(e)(2) of the Dairy Production Stabiliza-
20 tion Act of 1983 (7 U.S.C. 4504(e)(2)) is amended by
21 striking “2007” and inserting “2012”.

22 **SEC. 1605. REVISION OF FEDERAL MARKETING ORDER**
23 **AMENDMENT PROCEDURES.**

24 Section 8c of the Agricultural Adjustment Act (7
25 U.S.C. 608c), reenacted with amendments by the Agricul-

1 tural Marketing Agreement Act of 1937, is amended by
2 striking subsection (17) and inserting the following:

3 “(17) PROVISIONS APPLICABLE TO AMEND-
4 MENTS.—

5 “(A) APPLICABILITY TO AMENDMENTS.—

6 The provisions of this section and section 8d
7 applicable to orders shall be applicable to
8 amendments to orders.

9 “(B) SUPPLEMENTAL RULES OF PRAC-
10 TICE.—

11 “(i) IN GENERAL.—Not later than 60
12 days after the date of enactment of this
13 subparagraph, the Secretary shall issue,
14 using informal rulemaking, supplemental
15 rules of practice to define guidelines and
16 timeframes for the rulemaking process re-
17 lating to amendments to orders.

18 “(ii) ISSUES.—At a minimum, the
19 supplemental rules of practice shall estab-
20 lish—

21 “(I) proposal submission require-
22 ments;

23 “(II) pre-hearing information
24 session specifications;

1 “(III) written testimony and data
2 request requirements;

3 “(IV) public participation time-
4 frames; and

5 “(V) electronic document submis-
6 sion standards.

7 “(iii) EFFECTIVE DATE.—The supple-
8 mental rules of practice shall take effect
9 not later than 120 days after the date of
10 enactment of this subparagraph, as deter-
11 mined by the Secretary.

12 “(C) HEARING TIMEFRAMES.—

13 “(i) IN GENERAL.—Not more than 30
14 days after the receipt of a proposal for an
15 amendment hearing regarding a milk mar-
16 keting order, the Secretary shall—

17 “(I) issue a notice providing an
18 action plan and expected timeframes
19 for completion of the hearing not
20 more than 180 days after the date of
21 the issuance of the notice;

22 “(II)(aa) issue a request for ad-
23 ditional information to be used by the
24 Secretary in making a determination
25 regarding the proposal; and

1 “(bb) if the additional informa-
2 tion is not provided to the Secretary
3 within the timeframe requested by the
4 Secretary, issue a denial of the re-
5 quest; or

6 “(III) issue a denial of the re-
7 quest.

8 “(ii) NOTICE.—A notice issued under
9 clause (i)(I) shall be individualized for each
10 proceeding and take into consideration—

11 “(I) the number of orders af-
12 fected;

13 “(II) the complexity of issues in-
14 volved; and

15 “(III) the extent of the analyses
16 required by applicable Executive or-
17 ders (including Executive orders relat-
18 ing to civil rights, regulatory flexi-
19 bility, and economic impact).

20 “(iii) RECOMMENDED DECISIONS.—A
21 recommended decision on a proposed
22 amendment to an order shall be issued not
23 later than 90 days after the deadline estab-
24 lished after the hearing for the submission
25 of post-hearing briefs, unless otherwise

1 provided in the initial notice issued under
2 clause (i)(I).

3 “(iv) FINAL DECISIONS.—A final deci-
4 sion on a proposed amendment to an order
5 shall be issued not later than 60 days after
6 the deadline for submission of comments
7 and exceptions to the recommended deci-
8 sion issued under clause (ii), unless other-
9 wise provided in the initial notice issued
10 under clause (i)(I).

11 “(D) INDUSTRY ASSESSMENTS.—If the
12 Secretary determines it is necessary to improve
13 or expedite rulemaking under this subsection,
14 the Secretary may impose an assessment on the
15 affected industry to supplement appropriated
16 funds for the procurement of service providers,
17 such as court reporters.

18 “(E) USE OF INFORMAL RULEMAKING.—
19 The Secretary may use rulemaking under sec-
20 tion 553 of title 5, United States Code, to
21 amend orders, other than provisions of orders
22 that directly affecting milk prices.”.

23 **SEC. 1606. DAIRY FORWARD PRICING PROGRAM.**

24 (a) IN GENERAL.—Section 23 of the Agricultural Ad-
25 justment Act (7 U.S.C. 627), reenacted with amendments

1 by the Agricultural Marketing Agreement Act of 1937, is
2 amended—

3 (1) in the section heading, by striking
4 “**PILOT**”;

5 (2) by striking subsection (a) and inserting the
6 following:

7 “(a) PROGRAM REQUIRED.—The Secretary of Agri-
8 culture shall establish a program under which milk pro-
9 ducers and cooperative associations of producers are au-
10 thorized to voluntarily enter into forward price contracts
11 with milk handlers.”;

12 (3) in subsection (c)—

13 (A) in the subsection heading, by striking
14 “PILOT”; and

15 (B) in paragraph (1), by striking “pilot”;

16 (4) by striking subsections (d) and (e); and

17 (5) by adding at the end the following:

18 “(d) VOLUNTARY PROGRAM.—

19 “(1) IN GENERAL.—A milk handler may not re-
20 quire participation in a forward price contract as a
21 condition of the handler receiving milk from a pro-
22 ducer or cooperative association of producers.

23 “(2) EFFECT OF NONPARTICIPATION.—A pro-
24 ducer or cooperative association that does not enter
25 into a forward price contract may continue to have

1 milk priced under the minimum payment provisions
2 of the applicable milk marketing order.

3 “(3) COMPLAINTS.—The Secretary shall—

4 “(A) investigate complaints made by pro-
5 ducers or cooperative associations of coercion by
6 handlers to enter into forward price contracts;
7 and

8 “(B) if the Secretary finds evidence of co-
9 ercion, take appropriate action.

10 “(e) DURATION.—No forward price contract under
11 this section may—

12 “(1) be entered into after September 30, 2012;
13 or

14 “(2) may extend beyond September 30, 2015.”.

15 (b) CONFORMING AMENDMENTS.—Section 23 of the
16 Agricultural Adjustment Act (7 U.S.C. 627), reenacted
17 with amendments by the Agricultural Marketing Agree-
18 ment Act of 1937, is amended by striking “cooperatives”
19 each place it appears in subsections (b) and (c)(2) and
20 inserting “cooperative associations of producers”.

21 **SEC. 1607. REPORT ON DEPARTMENT OF AGRICULTURE RE-**
22 **PORTING PROCEDURES FOR NONFAT DRY**
23 **MILK.**

24 Not later than 90 days after the date of the enact-
25 ment of this Act, the Secretary shall submit to the Com-

1 mittee on Agriculture of the House of Representatives and
2 the Committee on Agriculture, Nutrition, and Forestry of
3 the Senate a report regarding Department of Agriculture
4 reporting procedures for nonfat dry milk and the impact
5 of the procedures on Federal milk marketing order min-
6 imum prices during the period beginning on July 1, 2006,
7 and ending on the date of the enactment of this Act.

8 **SEC. 1608. FEDERAL MILK MARKETING ORDER REVIEW**
9 **COMMISSION.**

10 (a) **DEFINITION OF ASCARR INSTITUTION.**—In this
11 section:

12 (1) **IN GENERAL.**—The term “ASCARR Insti-
13 tution” means a public college or university offering
14 a baccalaureate or higher degree in the study of ag-
15 riculture.

16 (2) **EXCLUSIONS.**—The term “ASCARR Insti-
17 tution” does not include an institution eligible to re-
18 ceive funds under—

19 (A) the Act of July 2, 1862 (commonly
20 known as the “First Morrill Act”) (7 U.S.C.
21 301 et seq.);

22 (B) the Act of August 30, 1890 (commonly
23 known as the “Second Morrill Act”) (7 U.S.C.
24 321 et seq.); or

1 (C) the Equity in Educational Land-Grant
2 Status Act of 1994 (Public Law 103–382; 7
3 U.S.C. 301 note).

4 (b) ESTABLISHMENT.—Subject to the availability of
5 funds appropriated to carry out this section, the Secretary
6 shall establish a commission to be known as the “Federal
7 Milk Marketing Order Review Commission” (referred to
8 in this section as the “Commission”), which shall conduct
9 a comprehensive review and evaluation of—

10 (1) the Federal milk marketing order system in
11 effect on the date of enactment of this Act; and

12 (2) non-Federal milk marketing order systems.

13 (c) ELEMENTS OF REVIEW AND EVALUATION.—As
14 part of the review and evaluation under subsection (b),
15 the Commission shall consider legislative and regulatory
16 options for—

17 (1) ensuring that the competitiveness of dairy
18 products with other competing products in the mar-
19 ketplace is preserved and enhanced;

20 (2) enhancing the competitiveness of United
21 States dairy producers in world markets;

22 (3) increasing the responsiveness of the Federal
23 milk marketing order system to market forces;

1 (4) streamlining and expediting the process by
2 which amendments to Federal milk market orders
3 are adopted;

4 (5) simplifying the Federal milk marketing
5 order system;

6 (6) evaluating whether the Federal milk mar-
7 keting order system, established during the Great
8 Depression, continues to serve the interests of the
9 public, dairy processors, and dairy producers;

10 (7) evaluating whether Federal milk marketing
11 orders are operating in a manner to minimize costs
12 to taxpayers and consumers;

13 (8) evaluating the nutritional composition of
14 milk, including the potential benefits and costs of
15 adjusting the milk content standards; and

16 (9) evaluating the economic benefits to milk
17 producers of establishing a 2-class system of
18 classifying milk consisting of a fluid milk class and
19 a manufacturing grade milk class, with the price of
20 both classes determined using the component prices
21 of butterfat, protein, and other solids.

22 (d) MEMBERSHIP.—

23 (1) COMPOSITION.—The Commission shall con-
24 sist of 18 members.

1 (2) MEMBERS.—As soon as practicable after
2 the date on which funds are first made available to
3 carry out this section—

4 (A) 2 members of the Commission shall be
5 appointed by the Chairman of the Committee
6 on Agriculture of the House of Representatives,
7 in consultation with the ranking member of the
8 Committee on Agriculture of the House of Rep-
9 resentatives;

10 (B) 2 members of the Commission shall be
11 appointed by the Chairman of the Committee
12 on Agriculture, Nutrition, and Forestry of the
13 Senate, in consultation with the ranking mem-
14 ber of the Committee on Agriculture, Nutrition
15 and Forestry of the Senate; and

16 (C) 14 members of the Commission shall
17 be appointed by the Secretary.

18 (3) SPECIAL APPOINTMENT REQUIREMENTS.—
19 In the case of members of the Commission appointed
20 under paragraph (2)(C), the Secretary shall ensure
21 that—

22 (A) at least 1 member represents a na-
23 tional consumer organization;

24 (B) at least 4 members represent land-
25 grant colleges or universities (as defined in sec-

1 tion 1404 of the National Agricultural Re-
2 search, Extension, and Teaching Policy Act of
3 1977 (7 U.S.C. 3103)) or ASCARR institutions
4 with accredited dairy economic programs, with
5 at least 2 of those members being experts in the
6 field of economics;

7 (C) at least 1 member represents the food
8 and beverage retail sector; and

9 (D) 4 dairy producers and 4 dairy proc-
10 essors are appointed in a manner that will—

11 (i) balance geographical distribution
12 of milk production and dairy processing;

13 (ii) reflect all segments of dairy proc-
14 essing; and

15 (iii) represent all regions of the
16 United States equitably, including States
17 that operate outside of a Federal milk
18 marketing order.

19 (4) CHAIR.—The Commission shall elect 1 of
20 the members of the Commission to serve as chair-
21 person for the duration of the proceedings of the
22 Commission.

23 (5) VACANCY.—Any vacancy occurring before
24 the termination of the Commission shall be filled in
25 the same manner as the original appointment.

1 (6) COMPENSATION.—A member of the Com-
2 mission shall serve without compensation, but shall
3 be reimbursed by the Secretary from existing budget
4 authority for necessary and reasonable expenses in-
5 curred in the performance of the duties of the Com-
6 mission.

7 (e) REPORT.—

8 (1) IN GENERAL.—Not later than 2 years after
9 the date of the first meeting of the Commission, the
10 Commission shall submit to Congress and the Sec-
11 retary a report describing the results of the review
12 and evaluation conducted under this section, includ-
13 ing such recommendations regarding the legislative
14 and regulatory options considered under subsection
15 (c) as the Commission considers to be appropriate.

16 (2) SUPPORT.—The report findings shall re-
17 flect, to the maximum extent practicable, a con-
18 sensus opinion of the Commission members, but the
19 report may include majority and minority findings
20 regarding those matters for which consensus was not
21 reached.

22 (f) ADVISORY NATURE.—The Commission is wholly
23 advisory in nature and the recommendations of the Com-
24 mission are nonbinding.

1 (g) NO EFFECT ON EXISTING PROGRAMS.—The Sec-
2 retary shall not allow the existence of the Commission to
3 impede, delay, or otherwise affect any decisionmaking
4 process of the Department of Agriculture, including any
5 rulemaking procedures planned, proposed, or near comple-
6 tion.

7 (h) ADMINISTRATIVE ASSISTANCE.—The Secretary
8 shall provide such administrative support to the Commis-
9 sion, and expend such funds as necessary from budget au-
10 thority available to the Secretary, as is necessary to carry
11 out this section.

12 (i) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated such sums as are nec-
14 essary to carry out this section.

15 (j) TERMINATION OF EFFECTIVENESS.—The author-
16 ity provided by this section terminates effective on the
17 date of the submission of the report under subsection (e).

18 **Subtitle E—Administration**

19 **SEC. 1701. ADMINISTRATION GENERALLY.**

20 (a) USE OF COMMODITY CREDIT CORPORATION.—
21 Except as otherwise provided in subtitles A through D and
22 this subtitle, the Secretary shall use the funds, facilities,
23 and authorities of the Commodity Credit Corporation to
24 carry out subtitles A through D and this subtitle.

1 (b) DETERMINATIONS BY SECRETARY.—A deter-
2 mination made by the Secretary under this title shall be
3 final and conclusive.

4 (c) REGULATIONS.—

5 (1) IN GENERAL.—Not later than 90 days after
6 the date of the enactment of this Act, the Secretary
7 and the Commodity Credit Corporation, as appro-
8 priate, shall promulgate such regulations as are nec-
9 essary to implement this title and the amendments
10 made by this title.

11 (2) PROCEDURE.—The promulgation of the reg-
12 ulations and administration of this title and the
13 amendments made by this title shall be made with-
14 out regard to—

15 (A) chapter 35 of title 44, United States
16 Code (commonly known as the “Paperwork Re-
17 duction Act”);

18 (B) the Statement of Policy of the Sec-
19 retary of Agriculture effective July 24, 1971
20 (36 Fed. Reg. 13804), relating to notices of
21 proposed rulemaking and public participation in
22 rulemaking; and

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

1 (3) CONGRESSIONAL REVIEW OF AGENCY RULE-
2 MAKING.—In carrying out this subsection, the Sec-
3 retary shall use the authority provided under section
4 808 of title 5, United States Code.

5 (d) ADJUSTMENT AUTHORITY RELATED TO TRADE
6 AGREEMENTS COMPLIANCE.—

7 (1) REQUIRED DETERMINATION; ADJUST-
8 MENT.—If the Secretary determines that expendi-
9 tures under subtitles A through D and this subtitle
10 that are subject to the total allowable domestic sup-
11 port levels under the Uruguay Round Agreements
12 (as defined in section 2 of the Uruguay Round
13 Agreements Act (19 U.S.C. 3501)) will exceed such
14 allowable levels for any applicable reporting period,
15 the Secretary shall, to the maximum extent prac-
16 ticable, make adjustments in the amount of such ex-
17 penditures during that period to ensure that such
18 expenditures do not exceed such allowable levels.

19 (2) CONGRESSIONAL NOTIFICATION.—Before
20 making any adjustment under paragraph (1), the
21 Secretary shall submit to the Committee on Agri-
22 culture of the House of Representatives or the Com-
23 mittee on Agriculture, Nutrition, and Forestry of
24 the Senate a report describing the determination

1 made under that paragraph and the extent of the
2 adjustment to be made.

3 (e) TREATMENT OF ADVANCE PAYMENT OPTION.—

4 Section 1601(d) of the Farm Security and Rural Invest-
5 ment Act of 2002 (7 U.S.C. 7991(d)) is amended—

6 (1) in paragraph (1), by striking “and” at the
7 end;

8 (2) in paragraph (2), by striking the period at
9 the end and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(3) the advance payment of direct payments
12 and counter-cyclical payments under title I of the
13 Food and Energy Security Act of 2007.”.

14 **SEC. 1702. SUSPENSION OF PERMANENT PRICE SUPPORT**
15 **AUTHORITY.**

16 (a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—

17 The following provisions of the Agricultural Adjustment
18 Act of 1938 shall not be applicable to the 2008 through
19 2012 crops of covered commodities and sugar and shall
20 not be applicable to milk during the period beginning on
21 the date of enactment of this Act through December 31,
22 2012:

23 (1) Parts II through V of subtitle B of title III
24 (7 U.S.C. 1326 et seq.).

1 (2) In the case of upland cotton, section 377 (7
2 U.S.C. 1377).

3 (3) Subtitle D of title III (7 U.S.C. 1379a et
4 seq.).

5 (4) Title IV (7 U.S.C. 1401 et seq.).

6 (b) AGRICULTURAL ACT OF 1949.—The following
7 provisions of the Agricultural Act of 1949 shall not be ap-
8 plicable to the 2008 through 2012 crops of covered com-
9 modities and sugar and shall not be applicable to milk dur-
10 ing the period beginning on the date of enactment of this
11 Act and through December 31, 2012:

12 (1) Section 101 (7 U.S.C. 1441).

13 (2) Section 103(a) (7 U.S.C. 1444(a)).

14 (3) Section 105 (7 U.S.C. 1444b).

15 (4) Section 107 (7 U.S.C. 1445a).

16 (5) Section 110 (7 U.S.C. 1445e).

17 (6) Section 112 (7 U.S.C. 1445g).

18 (7) Section 115 (7 U.S.C. 1445k).

19 (8) Section 201 (7 U.S.C. 1446).

20 (9) Title III (7 U.S.C. 1447 et seq.).

21 (10) Title IV (7 U.S.C. 1421 et seq.), other
22 than sections 404, 412, and 416 (7 U.S.C. 1424,
23 1429, and 1431).

24 (11) Title V (7 U.S.C. 1461 et seq.).

25 (12) Title VI (7 U.S.C. 1471 et seq.).

1 (c) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—
2 The joint resolution entitled “A joint resolution relating
3 to corn and wheat marketing quotas under the Agricul-
4 tural Adjustment Act of 1938, as amended”, approved
5 May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be
6 applicable to the crops of wheat planted for harvest in the
7 calendar years 2008 through 2012.

8 **SEC. 1703. PAYMENT LIMITATIONS.**

9 (a) EXTENSION OF LIMITATIONS.—Sections 1001
10 and 1001C(a) of the Food Security Act of 1985 (7 U.S.C.
11 1308, 1308-3(a)) are amended by striking “Farm Security
12 and Rural Investment Act of 2002” each place it appears
13 and inserting “Food and Energy Security Act of 2007”.

14 (b) REVISION OF LIMITATIONS.—

15 (1) DEFINITIONS.—Section 1001(a) of the
16 Food Security Act of 1985 (7 U.S.C. 1308) is
17 amended—

18 (A) in the matter preceding paragraph (1),
19 by inserting “and section 1001A” after “sec-
20 tion”;

21 (B) by striking paragraph (2) and redesign-
22 ating paragraph (3) as paragraph (5); and

23 (C) by inserting after paragraph (1) the
24 following:

1 “(2) FAMILY MEMBER.—The term ‘family
2 member’ means an individual to whom a member in
3 the farming operation is related as lineal ancestor,
4 lineal descendant, sibling, or spouse.

5 “(3) LEGAL ENTITY.—The term ‘legal entity’
6 means an entity that is created under Federal or
7 State law and that—

8 “(A) owns land or an agricultural com-
9 modity; or

10 “(B) produces an agricultural commodity.

11 “(4) PERSON.—The term ‘person’ means a nat-
12 ural person, and does not include a legal entity.”.

13 (2) LIMITATION ON DIRECT PAYMENTS AND
14 COUNTER-CYCLICAL PAYMENTS.—Section 1001 of
15 the Food Security Act of 1985 (7 U.S.C. 1308) is
16 amended by striking subsections (b), (c) and (d) and
17 inserting the following:

18 “(b) LIMITATION ON DIRECT AND COUNTER-CYCLI-
19 CAL PAYMENTS FOR COVERED COMMODITIES (OTHER
20 THAN PEANUTS).—

21 “(1) DIRECT PAYMENTS.—The total amount of
22 direct payments received, directly or indirectly, by a
23 person or legal entity (except a joint venture or a
24 general partnership) for any crop year under part I
25 of subtitle A of title I of the Food and Energy Secu-

1 rity Act of 2007 for 1 or more covered commodities
2 (except for peanuts), or average crop revenue pay-
3 ments determined under section 1401(b)(2) of that
4 Act, may not exceed \$40,000.

5 “(2) COUNTER-CYCLICAL PAYMENTS.—The
6 total amount of counter-cyclical payments received,
7 directly or indirectly, by a person or legal entity (ex-
8 cept a joint venture or a general partnership) for
9 any crop year under part I of subtitle A of title I
10 of the Food and Energy Security Act of 2007 for
11 one or more covered commodities (except for pea-
12 nuts) may not exceed \$60,000.

13 “(c) LIMITATION ON DIRECT PAYMENTS AND
14 COUNTER-CYCLICAL PAYMENTS FOR PEANUTS.—

15 “(1) DIRECT PAYMENTS.—The total amount of
16 direct payments received, directly or indirectly, by a
17 person or legal entity (except a joint venture or a
18 general partnership) for any crop year under part
19 III of subtitle A of title I of the Food and Energy
20 Security Act of 2007 for peanuts, or average crop
21 revenue payments determined under section
22 1401(b)(2) of that Act, may not exceed \$40,000.

23 “(2) COUNTER-CYCLICAL PAYMENTS.—The
24 total amount of counter-cyclical payments received,
25 directly or indirectly, by a person or legal entity (ex-

1 cept a joint venture or a general partnership) for
2 any crop year under part III of subtitle A of title
3 I of the Food and Energy Security Act of 2007 for
4 peanuts may not exceed \$60,000.”.

5 “(d) LIMITATION ON APPLICABILITY.—Nothing in
6 this section authorizes any limitation on any benefit asso-
7 ciated with the marketing assistance loan program or the
8 loan deficiency payment program under title I of the Food
9 and Energy Security Act of 2007.”.

10 (3) DIRECT ATTRIBUTION.—Section 1001 of
11 the Food Security Act of 1985 (7 U.S.C. 1308) is
12 amended by striking subsection (e) and redesign-
13 nating subsections (f) and (g) as (g) and (h), respec-
14 tively, and inserting the following:

15 “(e) ATTRIBUTION OF PAYMENTS.—

16 “(1) IN GENERAL.—In implementing sub-
17 sections (b) and (c) and a program described in sec-
18 tion 1001D(b)(2)(C), the Secretary shall issue such
19 regulations as are necessary to ensure that the total
20 amount of payments are attributed to a person by
21 taking into account the direct and indirect owner-
22 ship interests of the person in a legal entity that is
23 eligible to receive the payments.

24 “(2) PAYMENTS TO A PERSON.—Each payment
25 made directly to a person shall be combined with the

1 pro rata interest of the person in payments received
2 by a legal entity in which the person has a direct or
3 indirect ownership interest unless the payments of
4 the legal entity have been reduced by the pro rata
5 share of the person.

6 “(3) PAYMENTS TO A LEGAL ENTITY.—

7 “(A) IN GENERAL.—Each payment made
8 to a legal entity shall be attributed to those per-
9 sons who have a direct or indirect ownership in-
10 terest in the legal entity unless the payment to
11 the legal entity has been reduced by the pro
12 rata share of the person.

13 “(B) ATTRIBUTION OF PAYMENTS.—

14 “(i) PAYMENT LIMITS.—Except as
15 provided in clause (ii), payments made to
16 a legal entity shall not exceed the amounts
17 specified in subsections (b) and (c).

18 “(ii) EXCEPTION FOR JOINT VEN-
19 TURES AND GENERAL PARTNERSHIPS.—
20 Payments made to a joint venture or a
21 general partnership shall not exceed, for
22 each payment specified in subsections (b)
23 and (c), the amount determined by multi-
24 plying the maximum payment amount
25 specified in subsections (b) and (c) by the

1 number of persons and legal entities (other
2 than joint ventures and general partner-
3 ships) that comprise the ownership of the
4 joint venture or general partnership.

5 “(iii) REDUCTION.—Payments made
6 to a legal entity shall be reduced propor-
7 tionately by an amount that represents the
8 direct or indirect ownership in the legal en-
9 tity by any individual or legal entity that
10 has otherwise exceeded the applicable max-
11 imum payment limitation.

12 “(4) 4 LEVELS OF ATTRIBUTION FOR EMBED-
13 DED LEGAL ENTITIES.—

14 “(A) IN GENERAL.—Attribution of pay-
15 ments made to legal entities shall be traced
16 through 4 levels of ownership in legal entities.

17 “(B) FIRST LEVEL.—Any payments made
18 to a legal entity (a first-tier legal entity) that
19 is owned in whole or in part by a person shall
20 be attributed to the person in an amount that
21 represents the direct ownership in the first-tier
22 legal entity by the person.

23 “(C) SECOND LEVEL.—

24 “(i) IN GENERAL.—Any payments
25 made to a first-tier legal entity that is

1 owned (in whole or in part) by another
2 legal entity (a second-tier legal entity)
3 shall be attributed to the second-tier legal
4 entity in proportion to the ownership of the
5 second-tier legal entity in the first-tier
6 legal entity.

7 “(ii) OWNERSHIP BY A PERSON.—If
8 the second-tier legal entity is owned (in
9 whole or in part) by a person, the amount
10 of the payment made to the first-tier legal
11 entity shall be attributed to the person in
12 the amount that represents the indirect
13 ownership in the first-tier legal entity by
14 the person.

15 “(D) THIRD AND FOURTH LEVELS.—

16 “(i) IN GENERAL.—Except as pro-
17 vided in clause (ii), the Secretary shall at-
18 tribute payments at the third and fourth
19 tiers of ownership in the same manner as
20 specified in subparagraph (C).

21 “(ii) FOURTH-TIER OWNERSHIP.—If
22 the fourth-tier of ownership is that of a
23 fourth-tier legal entity and not that of a
24 person, the Secretary shall reduce the
25 amount of the payment to be made to the

1 first-tier legal entity in the amount that
2 represents the indirect ownership in the
3 first-tier legal entity by the fourth-tier
4 legal entity.

5 “(f) SPECIAL RULES.—

6 “(1) MINOR CHILDREN.—

7 “(A) IN GENERAL.—Except as provided in
8 subparagraph (B), payments received by a child
9 under the age of 18 shall be attributed to the
10 parents of the child.

11 “(B) REGULATIONS.—The Secretary shall
12 issue regulations specifying the conditions
13 under which payments received by a child under
14 the age of 18 will not be attributed to the par-
15 ents of the child.

16 “(2) MARKETING COOPERATIVES.—Subsections
17 (b) and (c) shall not apply to a cooperative associa-
18 tion of producers with respect to commodities pro-
19 duced by the members of the association that are
20 marketed by the association on behalf of the mem-
21 bers of the association but shall apply to the pro-
22 ducers as persons.

23 “(3) TRUSTS AND ESTATES.—

24 “(A) IN GENERAL.—With respect to irrev-
25 ocable trusts and estates, the Secretary shall

1 administer this section through section 1001F
2 in such manner as the Secretary determines will
3 ensure the fair and equitable treatment of the
4 beneficiaries of the trusts and estates.

5 “(B) IRREVOCABLE TRUST.—

6 “(i) IN GENERAL.—In order for a
7 trust to be considered an irrevocable trust,
8 the terms of the trust agreement shall
9 not—

10 “(I) allow for modification or ter-
11 mination of the trust by the grantor;

12 “(II) allow for the grantor to
13 have any future, contingent, or re-
14 mainder interest in the corpus of the
15 trust; or

16 “(III) except as provided in
17 clause (ii), provide for the transfer of
18 the corpus of the trust to the remain-
19 der beneficiary in less than 20 years
20 beginning on the date the trust is es-
21 tablished.

22 “(ii) EXCEPTION.—Clause (i)(III)
23 shall not apply in a case in which the
24 transfer is—

1 “(I) contingent on the remainder
2 beneficiary achieving at least the age
3 of majority; or

4 “(II) is contingent on the death
5 of the grantor or income beneficiary.

6 “(C) REVOCABLE TRUST.—For the pur-
7 poses of this section through section 1001F, a
8 revocable trust shall be considered to be the
9 same person as the grantor of the trust.

10 “(4) CASH RENT TENANTS.—

11 “(A) DEFINITION.—In this paragraph, the
12 term ‘cash rent tenant’ means a person or legal
13 entity that rents land—

14 “(i) for cash; or

15 “(ii) for a crop share guaranteed as to
16 the amount of the commodity to be paid in
17 rent.

18 “(B) RESTRICTION.—A cash rent tenant
19 who makes a significant contribution of active
20 personal management, but not of personal
21 labor, with respect to a farming operation shall
22 be eligible to receive a payment described in
23 subsection (b) or (c) only if the tenant makes
24 a significant contribution of equipment to the
25 farming operation.

1 “(5) FEDERAL AGENCIES.—

2 “(A) IN GENERAL.—A Federal agency
3 shall not be eligible to receive any payment de-
4 scribed in subsection (b) or (c).

5 “(B) LAND RENTAL.—A lessee of land
6 owned by a Federal agency may receive a pay-
7 ment described in subsection (b) or (c) if the
8 lessee otherwise meets all applicable criteria.

9 “(6) STATE AND LOCAL GOVERNMENTS.—

10 “(A) IN GENERAL.—Except as provided in
11 subsection (g), a State or local government, or
12 political subdivision or agency of the govern-
13 ment, shall not be eligible to receive a payment
14 described in subsection (b) or (c).

15 “(B) TENANTS.—A lessee of land owned
16 by a State or local government, or political sub-
17 division or agency of the government, may re-
18 ceive payments described in subsections (b) and
19 (c) if the lessee otherwise meet all applicable
20 criteria.

21 “(7) CHANGES IN FARMING OPERATIONS.—

22 “(A) IN GENERAL.—In the administration
23 of this section through section 1001F, the Sec-
24 retary may not approve any change in a farm-
25 ing operation that otherwise will increase the

1 number of persons to which the limitations
2 under this section are applied unless the Sec-
3 retary determines that the change is bona fide
4 and substantive.

5 “(B) FAMILY MEMBERS.—The addition of
6 a family member to a farming operation under
7 the criteria set out in section 1001A shall be
8 considered a bona fide and substantive change
9 in the farming operation.

10 “(8) DEATH OF OWNER.—

11 “(A) IN GENERAL.—If any ownership in-
12 terest in land or a commodity is transferred as
13 the result of the death of a program partici-
14 pant, the new owner of the land or commodity
15 may, if the person is otherwise eligible to par-
16 ticipate in the applicable program, succeed to
17 the contract of the prior owner and receive pay-
18 ments subject to this section without regard to
19 the amount of payments received by the new
20 owner.

21 “(B) LIMITATIONS ON PRIOR OWNER.—
22 Payments made under this paragraph shall not
23 exceed the amount to which the previous owner
24 was entitled to receive under the terms of the

1 contract at the time of the death of the prior
2 owner.”.

3 (c) REPEAL OF 3-ENTITY RULE.—Section 1001A of
4 the Food Security Act of 1985 (7 U.S.C. 1308-1) is
5 amended—

6 (1) in the section heading, by striking “**PRE-**
7 **VENTION OF CREATION OF ENTITIES TO QUAL-**
8 **IFY AS SEPARATE PERSONS**” and inserting “**NO-**
9 **TIFICATION OF INTERESTS**”; and

10 (2) by striking subsection (a) and inserting the
11 following:

12 “(a) NOTIFICATION OF INTERESTS.—To facilitate
13 administration of section 1001 and this section, each per-
14 son or legal entity receiving payments described in sub-
15 sections (b) and (c) of section 1001 as a separate person
16 or legal entity shall separately provide to the Secretary,
17 at such times and in such manner as prescribed by the
18 Secretary—

19 “(1) the name and social security number of
20 each individual, or the name and taxpayer identifica-
21 tion number of each legal entity, that holds or ac-
22 quires an ownership interest in the separate person
23 or legal entity; and

1 “(2) the name and taxpayer identification num-
2 ber of each legal entity in which the person or legal
3 entity holds an ownership interest.”.

4 (d) AMENDMENT FOR CONSISTENCY.—Section
5 1001A of the Food Security Act of 1985 (7 U.S.C. 1308-
6 1) is amended by striking subsection (b) and inserting the
7 following:

8 “(b) ACTIVELY ENGAGED.—

9 “(1) IN GENERAL.—To be eligible to receive a
10 payment described in subsection (b) or (c) of section
11 1001, a person or legal entity shall be actively en-
12 gaged in farming with respect to a farming oper-
13 ation as provided in this subsection or subsection
14 (c).

15 “(2) CLASSES ACTIVELY ENGAGED.—Except as
16 provided in subsections (c) and (d)—

17 “(A) a person (including a person partici-
18 pating in a farming operation as a partner in
19 a general partnership, a participant in a joint
20 venture, a grantor of a revocable trust, or a
21 participant in a similar entity, as determined by
22 the Secretary) shall be considered to be actively
23 engaged in farming with respect to a farming
24 operation if—

1 “(i) the person makes a significant
2 contribution (based on the total value of
3 the farming operation) to the farming op-
4 eration of—

5 “(I) capital, equipment, or land;
6 and

7 “(II) personal labor or active per-
8 sonal management;

9 “(ii) the person’s share of the profits
10 or losses from the farming operation is
11 commensurate with the contributions of
12 the person to the farming operation; and

13 “(iii) the contributions of the person
14 are at risk;

15 “(B) a legal entity that is a corporation,
16 joint stock company, association, limited part-
17 nership, charitable organization, or other simi-
18 lar entity determined by the Secretary (includ-
19 ing any such legal entity participating in the
20 farming operation as a partner in a general
21 partnership, a participant in a joint venture, a
22 grantor of a revocable trust, or as a participant
23 in a similar legal entity as determined by the
24 Secretary) shall be considered as actively en-

1 gaged in farming with respect to a farming op-
2 eration if—

3 “(i) the legal entity separately makes
4 a significant contribution (based on the
5 total value of the farming operation) of
6 capital, equipment, or land;

7 “(ii) the stockholders or members col-
8 lectively make a significant contribution of
9 personal labor or active personal manage-
10 ment to the operation; and

11 “(iii) the standards provided in
12 clauses (ii) and (iii) of subparagraph (A),
13 as applied to the legal entity, are met by
14 the legal entity;

15 “(C) if a legal entity that is a general part-
16 nership, joint venture, or similar entity, as de-
17 termined by the Secretary, separately makes a
18 significant contribution (based on the total
19 value of the farming operation involved) of cap-
20 ital, equipment, or land, and the standards pro-
21 vided in clauses (ii) and (iii) of subparagraph
22 (A), as applied to the legal entity, are met by
23 the legal entity, the partners or members mak-
24 ing a significant contribution of personal labor
25 or active personal management shall be consid-

1 ered to be actively engaged in farming with re-
2 spect to the farming operation involved; and

3 “(D) in making determinations under this
4 subsection regarding equipment and personal
5 labor, the Secretary shall take into consider-
6 ation the equipment and personal labor nor-
7 mally and customarily provided by farm opera-
8 tors in the area involved to produce program
9 crops.

10 “(c) SPECIAL CLASSES ACTIVELY ENGAGED.—

11 “(1) LANDOWNER.—A person or legal entity
12 that is a landowner contributing the owned land to
13 a farming operation shall be considered to be ac-
14 tively engaged in farming with respect to the farm-
15 ing operation if—

16 “(A) the landowner receives rent or income
17 for the use of the land based on the production
18 on the land or the operating results of the oper-
19 ation; and

20 “(B) the person or legal entity meets the
21 standards provided in clauses (ii) and (iii) of
22 subsection (b)(2)(A).

23 “(2) ADULT FAMILY MEMBER.—If a majority of
24 the participants in a farming operation are family
25 members, an adult family member shall be consid-

1 ered to be actively engaged in farming with respect
2 to the farming operation if the person—

3 “(A) makes a significant contribution,
4 based on the total value of the farming oper-
5 ation, of active personal management or per-
6 sonal labor; and

7 “(B) with respect to such contribution,
8 meets the standards provided in clauses (ii) and
9 (iii) of subsection (b)(2)(A).

10 “(3) SHARECROPPER.—A sharecropper who
11 makes a significant contribution of personal labor to
12 a farming operation shall be considered to be ac-
13 tively engaged in farming with respect to the farm-
14 ing operation if the contribution meets the standards
15 provided in clauses (ii) and (iii) of subsection
16 (b)(2)(A).

17 “(4) GROWERS OF HYBRID SEED.—In deter-
18 mining whether a person or legal entity growing hy-
19 brid seed under contract shall be considered to be
20 actively engaged in farming, the Secretary shall not
21 take into consideration the existence of a hybrid seed
22 contract.

23 “(5) CUSTOM FARMING SERVICES.—

24 “(A) IN GENERAL.—A person or legal enti-
25 ty receiving custom farming services shall be

1 considered separately eligible for payment limi-
2 tation purposes if the person or legal entity is
3 actively engaged in farming based on subsection
4 (b)(2) or paragraphs (1) through (4) of this
5 subsection.

6 “(B) PROHIBITION.—No other rules with
7 respect to custom farming shall apply.

8 “(6) SPOUSE.—If 1 spouse (or estate of a de-
9 ceased spouse) is determined to be actively engaged,
10 the other spouse shall be determined to have met the
11 requirements of subsection (b)(2)(A)(i)(II).

12 “(d) CLASSES NOT ACTIVELY ENGAGED.—

13 “(1) CASH RENT LANDLORD.—A landlord con-
14 tributing land to a farming operation shall not be
15 considered to be actively engaged in farming with re-
16 spect to the farming operation if the landlord re-
17 ceives cash rent, or a crop share guaranteed as to
18 the amount of the commodity to be paid in rent, for
19 the use of the land.

20 “(2) OTHER PERSONS AND LEGAL ENTITIES.—
21 Any other person or legal entity that the Secretary
22 determines does not meet the standards described in
23 subsections (b)(2) and (c) shall not be considered to
24 be actively engaged in farming with respect to a
25 farming operation.”.

1 (e) DENIAL OF PROGRAM BENEFITS.—Section
2 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–
3 2) is amended to read as follows:

4 **“SEC. 1001B. DENIAL OF PROGRAM BENEFITS.**

5 “(a) 2-YEAR DENIAL OF PROGRAM BENEFITS.—A
6 person or legal entity shall be ineligible to receive pay-
7 ments specified in subsections (b) and (c) of section 1001
8 for the crop year, and the succeeding crop year, in which
9 the Secretary determines that the person or legal entity—

10 “(1) failed to comply with section 1001A(b) and
11 adopted or participated in adopting a scheme or de-
12 vice to evade the application of section 1001, 1001A,
13 or 1001C; or

14 “(2) intentionally concealed the interest of the
15 person or legal entity in any farm or legal entity en-
16 gaged in farming.

17 “(b) EXTENDED INELIGIBILITY.—If the Secretary
18 determines that a person or legal entity, for the benefit
19 of the person or legal entity or the benefit of any other
20 person or legal entity, has knowingly engaged in, or aided
21 in the creation of a fraudulent document, presented false
22 information that was material and relevant to the adminis-
23 tration of sections 1001 through 1001F, or committed
24 other equally serious actions (as identified in regulations
25 issued by the Secretary), the Secretary may for a period

1 not to exceed 5 crop years deny the issuance of payments
2 to the person or legal entity.

3 “(c) PRO RATA DENIAL.—

4 “(1) IN GENERAL.—Payments otherwise owed
5 to a person or legal entity described in subsections
6 (a) or (b) shall be denied in a pro rata manner
7 based on the ownership interest of the person or
8 legal entity in a farm.

9 “(2) CASH RENT TENANT.—Payments other-
10 wise payable to the person or legal entity described
11 in subsection (a) or (b) who is a cash rent tenant
12 on a farm owned or under the control of the person
13 or legal entity shall be denied.

14 “(d) JOINT AND SEVERAL LIABILITY.—Any member
15 of any legal entity (including partnerships and joint ven-
16 tures) determined to have knowingly participated in a
17 scheme or device to evade, or that has the purpose of evad-
18 ing, sections 1001, 1001A, or 1001C shall be jointly and
19 severally liable for any amounts that are payable to the
20 Secretary as the result of the scheme or device (including
21 amounts necessary to recover those amounts).

22 “(e) RELEASE.—The Secretary may partially or fully
23 release from liability any person or legal entity who co-
24 operates with the Secretary in enforcing sections 1001,
25 1001A, and 1001C, and this section.”.

1 (f) CONFORMING AMENDMENTS.—

2 (1) Section 1009(e) of the Food Security Act of
3 1985 (7 U.S.C. 1308a(e)) is amended in the second
4 sentence by striking “of \$50,000”.

5 (2) Section 609(b)(1) of the Emergency Live-
6 stock Feed Assistance Act of 1988 (7 U.S.C.
7 1471g(b)(1)) is amended by inserting “(before the
8 amendment made by section 1703(a) of the Food
9 and Energy Security Act of 2007)” after “1985”.

10 (3) Section 524(b)(3) of the Federal Crop In-
11 surance Act (7 U.S.C. 1524(b)(3)) is amended by
12 inserting “(before the amendment made by section
13 1703(a) of the Food and Energy Security Act of
14 2007)” after “1308(5))”.

15 (4) Section 196(i) of the Federal Agriculture
16 Improvement and Reform Act of 1996 (7 U.S.C.
17 7333(i)) is amended in paragraphs (1)(A) and (5)
18 by inserting “(before the amendment made by sec-
19 tion 1703(a) of the Food and Energy Security Act
20 of 2007)” after “1308)” each place it appears.

21 (5) Section 10204(e)(1) of the Farm Security
22 and Rural Investment Act of 2002 (7 U.S.C.
23 8204(e)(1)) is amended by inserting “(before the
24 amendment made by section 1703(a) of the Food
25 and Energy Security Act of 2007)” after “1308”.

1 (6) Section 1271(c)(3)(A) of the Food, Agri-
2 culture, Conservation, and Trade Act of 1990 (16
3 U.S.C. 2106a(c)(3)(A)) is amended by inserting
4 “(before the amendment made by section 1703(a) of
5 the Food and Energy Security Act of 2007)” after
6 “1308”).

7 (7) Section 291(2) of the Trade Act of 1974
8 (19 U.S.C. 2401(2) is amended by inserting “(before
9 the amendment made by section 1703(a) of the
10 Food and Energy Security Act of 2007)” before the
11 period at the end.

12 (g) **TRANSITION.**—Section 1001, 1001A, and 1001B
13 of the Food Security Act of 1985 (7 U.S.C. 1308, 1308–
14 1, 1308–2), as in effect on the day before the date of the
15 enactment of this Act, shall continue to apply with respect
16 to the 2007 crop of any covered commodity or peanuts.

17 **SEC. 1704. ADJUSTED GROSS INCOME LIMITATION.**

18 (a) **EXTENSION OF ADJUSTED GROSS INCOME LIM-**
19 **TATION.**—Section 1001D of the Food Security Act of
20 1985 (7 U.S.C. 1308-3a) is amended—

21 (1) in subsection (b)(2), by striking “Farm Se-
22 curity and Rural Investment Act of 2002” each
23 place it appears and inserting “Food and Energy
24 Security Act of 2007”; and

1 (2) in subsection (e), by striking “2007” and
2 inserting “2012”.

3 (b) ALLOCATION OF INCOME.—Section 1001D(a) of
4 the Food Security Act of 1985 (7 U.S.C. 1308-3a(a)) is
5 amended by adding at the end the following:

6 “(3) ALLOCATION OF INCOME.—On the request
7 of any individual filing a joint tax return, the Sec-
8 retary shall provide for the allocation of adjusted
9 gross income among the individuals filing the return
10 based on a certified statement provided by a cer-
11 tified public accountant or attorney specifying the
12 manner in which the income would have been de-
13 clared and reported if the individuals had filed 2
14 separate returns, if the Secretary determines that
15 the calculation is consistent with the information
16 supporting the filed joint return.”.

17 (c) MODIFICATION OF LIMITATION.—Section 1001D
18 of the Food Security Act of 1985 (7 U.S.C. 1308-3a) is
19 amended by striking subsection (b) and inserting the fol-
20 lowing:

21 “(b) LIMITATION.—

22 “(1) CROP YEARS.—

23 “(A) 2009 CROP YEAR.—Notwithstanding
24 any other provision of law, an individual or en-
25 tity shall not be eligible to receive any benefit

1 described in paragraph (2) during the 2009
2 crop year if the average adjusted gross income
3 of the individual or entity exceeds \$1,000,000,
4 unless not less than 66.66 percent of the aver-
5 age adjusted gross income of the individual or
6 entity is derived from farming, ranching, or for-
7 estry operations, as determined by the Sec-
8 retary.

9 “(B) 2010 AND SUBSEQUENT CROP
10 YEARS.—Notwithstanding any other provision
11 of law, an individual or entity shall not be eligi-
12 ble to receive any benefit described in para-
13 graph (2) during any of the 2010 and subse-
14 quent crop years if the average adjusted gross
15 income of the individual or entity exceeds
16 \$750,000, unless not less than 66.66 percent of
17 the average adjusted gross income of the indi-
18 vidual or entity is derived from farming, ranch-
19 ing, or forestry operations, as determined by
20 the Secretary.

21 “(2) COVERED BENEFITS.—Paragraph (1) ap-
22 plies with respect to the following:

23 “(A) A direct payment or counter-cyclical
24 payment under part I or III of subtitle A of

1 title I of the Food and Energy Security Act of
2 2007.

3 “(B) A marketing loan gain or loan defi-
4 ciency payment under part II or III of subtitle
5 A of title I of the Food and Energy Security
6 Act of 2007.

7 “(C) A payment under any program
8 under—

9 “(i) title XII of this Act;

10 “(ii) title II of the Farm Security and
11 Rural Investment Act of 2002 (Public Law
12 107–171; 116 Stat. 223); or

13 “(iii) title II of the Food and Energy
14 Security Act of 2007.

15 “(3) INCOME DERIVED FROM FARMING, RANCH-
16 ING OR FORESTRY OPERATIONS.—In determining
17 what portion of the average adjusted gross income of
18 an individual or entity is derived from farming,
19 ranching, or forestry operations, the Secretary shall
20 include income derived from—

21 “(A) the production of crops, livestock, or
22 unfinished raw forestry products;

23 “(B) the sale, including the sale of ease-
24 ments and development rights, of farm, ranch,
25 or forestry land or water or hunting rights;

1 “(C) the sale of equipment to conduct
2 farm, ranch, or forestry operations;

3 “(D) the rental or lease of land used for
4 farming, ranching, or forestry operations, in-
5 cluding water or hunting rights;

6 “(E) the provision of production inputs
7 and services to farmers, ranchers, and foresters;

8 “(F) the processing (including packing),
9 storing (including shedding), and transporting
10 of farm, ranch, and forestry commodities;

11 “(G) the sale of land that has been used
12 for agriculture; and

13 “(H) payments or other income attrib-
14 utable to benefits received under any program
15 authorized under title I or II of the Food and
16 Energy Security Act of 2007.”.

17 (d) **TRANSITION.**—Section 1001D of the Food Secu-
18 rity Act of 1985 (7 U.S.C. 1308–3a), as in effect on the
19 day before the date of the enactment of this Act, shall
20 continue to apply with respect to the 2007 and 2008 crops
21 of any covered commodity or peanuts.

22 **SEC. 1705. AVAILABILITY OF QUALITY INCENTIVE PAY-**
23 **MENTS FOR CERTAIN PRODUCERS.**

24 (a) **INCENTIVE PAYMENTS REQUIRED.**—Subject to
25 subsection (b), the Secretary shall use funds made avail-

1 able under subsection (f) to provide quality incentive pay-
2 ments for the production of oilseeds with specialized traits
3 that enhance human health, as determined by the Sec-
4 retary.

5 (b) COVERED OILSEEDS.—The Secretary shall make
6 payments under this section only for the production of an
7 oilseed variety that has, as determined by the Secretary—

8 (1) been demonstrated to improve the health
9 profile of the oilseed for use in human consumption
10 by—

11 (A) reducing or eliminating the need to
12 partially hydrogenate the oil derived from the
13 oilseed for use in human consumption; or

14 (B) adopting new technology traits; and

15 (2) 1 or more impediments to commercializa-
16 tion.

17 (c) REQUEST FOR PROPOSALS.—

18 (1) ISSUANCE.—If funds are made available to
19 carry out this section for a crop year, the Secretary
20 shall issue a request for proposals for payments
21 under this section.

22 (2) MULTIYEAR PROPOSALS.—An entity may
23 submit a multiyear proposal for payments under this
24 section.

1 (3) CONTENT OF PROPOSALS.—A proposal for
2 payments under this section shall include a descrip-
3 tion of—

4 (A) each oilseed variety described in sub-
5 section (b) and the value of the oilseed variety
6 as a matter of public policy;

7 (B) a range for the amount of total per
8 bushel or hundredweight premiums to be paid
9 to producers;

10 (C) a per bushel or hundredweight amount
11 of incentive payments requested for each year
12 under this section that does not exceed $\frac{1}{3}$ of
13 the total premium offered for any year;

14 (D) the period of time, not to exceed 4
15 years, during which incentive payments are to
16 be provided to producers; and

17 (E) the targeted total quantity of produc-
18 tion and estimated acres needed to produce the
19 targeted quantity for each year under this sec-
20 tion.

21 (d) CONTRACTS FOR PRODUCTION.—

22 (1) IN GENERAL.—The Secretary shall approve
23 successful proposals submitted under subsection (c)
24 on a timely basis so as to allow production contracts

1 to be entered into with producers in advance of the
2 spring planting season for the 2009 crop year.

3 (2) TIMING OF PAYMENTS.—The Secretary
4 shall make payments to producers under this section
5 after the Secretary receives documentation that the
6 premium required under a contract has been made
7 to covered producers.

8 (e) ADMINISTRATION.—If funding provided for a crop
9 year is not fully allocated under the initial request for pro-
10 posals under subsection (c), the Secretary shall issue addi-
11 tional requests for proposals for subsequent crop years
12 under this section.

13 (f) PROPRIETARY INFORMATION.—The Secretary
14 shall protect proprietary information provided to the Sec-
15 retary for the purpose of administering this section.

16 (g) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to carry out this section
18 \$400,000,000 for the period of fiscal years 2008 through
19 2012.

20 **SEC. 1706. HARD WHITE WHEAT DEVELOPMENT PROGRAM.**

21 (a) DEFINITIONS.—In this section:

22 (1) ELIGIBLE HARD WHITE WHEAT SEED.—The
23 term “eligible hard white wheat seed” means hard
24 white wheat seed that, as determined by the Sec-
25 retary, is—

1 (A) certified;

2 (B) of a variety that is suitable for the
3 State in which the seed will be planted;

4 (C) rated at least superior with respect to
5 quality; and

6 (D) specifically approved under a seed es-
7 tablishment program established by the State
8 Department of Agriculture and the State Wheat
9 Commission of the 1 or more States in which
10 the seed will be planted.

11 (2) PROGRAM.—The term “program” means
12 the hard white wheat development program estab-
13 lished under subsection (b)(1).

14 (3) SECRETARY.—The term “Secretary” means
15 the Secretary of Agriculture, in consultation with the
16 State Departments of Agriculture and the State
17 Wheat Commissions of the States in regions in
18 which hard white wheat is produced, as determined
19 by the Secretary.

20 (b) ESTABLISHMENT.—

21 (1) IN GENERAL.—The Secretary shall establish
22 a hard white wheat development program in accord-
23 ance with paragraph (2) to promote the establish-
24 ment of hard white wheat as a viable market class
25 of wheat in the United States by encouraging pro-

1 duction of at least 240,000,000 bushels of hard
2 white wheat by 2012.

3 (2) PAYMENTS.—

4 (A) IN GENERAL.—Subject to subpara-
5 graphs (B) and (C) and subsection (c), the Sec-
6 retary shall make available incentive payments
7 to producers of each of the 2008 through 2012
8 crops of hard white wheat.

9 (B) ACREAGE LIMITATION.—The Secretary
10 shall carry out subparagraph (A) subject to a
11 regional limitation determined by the Secretary
12 on the number of acres for which payments
13 may be received that takes into account plant-
14 ing history and potential planting, but does not
15 exceed a total of 2,900,000 acres or the equiva-
16 lent volume of production based on a yield of 50
17 bushels per acre.

18 (C) PAYMENT LIMITATIONS.—Payments to
19 producers on a farm described in subparagraph
20 (A) shall be—

21 (i) in an amount that is not less than
22 \$0.20 per bushel; and

23 (ii) in an amount that is not less than
24 \$2.00 per acre for planting eligible hard
25 white wheat seed.

1 (c) FUNDING.—The Secretary shall make available
2 \$35,000,000 of funds of the Commodity Credit Corpora-
3 tion during the period of crop years 2008 through 2012
4 to provide incentive payments to producers of hard white
5 wheat under this section.

6 **SEC. 1707. DURUM WHEAT QUALITY PROGRAM.**

7 (a) IN GENERAL.—Subject to the availability of
8 funds under subsection (c), the Secretary shall provide
9 compensation to producers of durum wheat in an amount
10 not to exceed 50 percent of the actual cost of fungicides
11 applied to a crop of durum wheat of the producers to con-
12 trol Fusarium head blight (wheat scab) on acres certified
13 to have been planted to Durum wheat in a crop year.

14 (b) INSUFFICIENT FUNDS.—If the total amount of
15 funds appropriated for a fiscal year under subsection (c)
16 are insufficient to fulfill all eligible requests for compensa-
17 tion under this section, the Secretary shall prorate the
18 compensation payments in a manner determined by the
19 Secretary to be equitable.

20 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated to carry out this section
22 \$10,000,000 for each of fiscal years 2008 through 2012.

23 **SEC. 1708. STORAGE FACILITY LOANS.**

24 (a) IN GENERAL.—As soon as practicable after the
25 date of enactment of this Act, the Secretary shall establish

1 a storage facility loan program to provide funds for pro-
2 ducers of grains, oilseeds, pulse crops, hay, renewable bio-
3 mass, and other storable commodities (other than sugar),
4 as determined by the Secretary, to construct or upgrade
5 storage and handling facilities for the commodities.

6 (b) **ELIGIBLE PRODUCERS.**—A storage facility loan
7 under this section shall be made available to any producer
8 described in subsection (a) that, as determined by the Sec-
9 retary—

10 (1) has a satisfactory credit history;

11 (2) has a need for increased storage capacity;

12 and

13 (3) demonstrates an ability to repay the loan.

14 (c) **TERM OF LOANS.**—A storage facility loan under
15 this section shall have a maximum term of 12 years.

16 (d) **LOAN AMOUNT.**—The maximum principal
17 amount of a storage facility loan under this section shall
18 be \$500,000.

19 (e) **LOAN DISBURSEMENTS.**—The Secretary shall
20 provide for partial disbursements of loan principal, as de-
21 termined to be appropriate and subject to acceptable docu-
22 mentation, to facilitate the purchase and construction of
23 eligible facilities.

24 (f) **LOAN SECURITY.**—Approval of a storage facility
25 loan under this section shall—

1 (1) for loan amounts of less than \$150,000, not
2 require a lien on the real estate parcel on which the
3 storage facility is locate;

4 (2) for loan amounts equal to or more than
5 \$150,000, not require a severance agreement from
6 the holder of any prior lien on the real estate parcel
7 on which the storage facility is located, if the bor-
8 rower—

9 (A) agrees to increase the down payment
10 on the storage facility loan by an amount deter-
11 mined appropriate by the Secretary; or

12 (B) provides other security acceptable to
13 the Secretary; and

14 (3) allow a borrower, upon the approval of the
15 Secretary, to define a subparcel of real estate as se-
16 curity for the storage facility loan if the subparcel
17 is—

18 (A) of adequate size and value to ade-
19 quately secure the loan; and

20 (B) not subject to any other liens or mort-
21 gages that are superior to the lien interest of
22 the Commodity Credit Corporation.

1 **SEC. 1709. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.**
2

3 Section 164 of the Federal Agriculture Improvement
4 and Reform Act of 1996 (7 U.S.C. 7284) is amended by
5 striking “and title I of the Farm Security and Rural In-
6 vestment Act of 2002” each place it appears and inserting
7 “title I of the Farm Security and Rural Investment Act
8 of 2002, and title I of the Food and Energy Security Act
9 of 2007”.

10 **SEC. 1710. EXTENSION OF EXISTING ADMINISTRATIVE AUTHORITY REGARDING LOANS.**
11

12 Section 166 of the Federal Agriculture Improvement
13 and Reform Act of 1996 (7 U.S.C. 7286) is amended in
14 subsections (a) and (c)(1) by striking “and subtitle B and
15 C of title I of the Farm Security and Rural Investment
16 Act of 2002” each place it appears and inserting “title
17 I of the Farm Security and Rural Investment Act of 2002,
18 and title I of the Food and Energy Security Act of 2007”.

19 **SEC. 1711. ASSIGNMENT OF PAYMENTS.**

20 (a) IN GENERAL.—The provisions of section 8(g) of
21 the Soil Conservation and Domestic Allotment Act (16
22 U.S.C. 590h(g)), relating to assignment of payments, shall
23 apply to payments made under the authority of subtitles
24 A through E and this subtitle.

25 (b) NOTICE.—The producer making the assignment,
26 or the assignee, shall provide the Secretary with notice,

1 in such manner as the Secretary may require, of any as-
2 signment made under this section.

3 **SEC. 1712. COTTON CLASSIFICATION SERVICES.**

4 Section 3a of the Act of March 3, 1927 (7 U.S.C.
5 473a), is amended to read as follows:

6 **“SEC. 3a. COTTON CLASSIFICATION SERVICES.**

7 “(a) IN GENERAL.—The Secretary of Agriculture
8 (referred to in this section as the ‘Secretary’) shall—

9 “(1) make cotton classification services avail-
10 able to producers of cotton; and

11 “(2) provide for the collection of classification
12 fees from participating producers or agents that vol-
13 untarily agree to collect and remit the fees on behalf
14 of producers.

15 “(b) USE OF FEES.—Classification fees collected
16 under subsection (a)(2) and the proceeds from the sales
17 of samples submitted under this section shall, to the max-
18 imum extent practicable, be used to pay the cost of the
19 services provided under this section, including administra-
20 tive and supervisory costs.

21 “(c) CONSULTATION.—

22 “(1) IN GENERAL.—In establishing the amount
23 of fees under this section, the Secretary shall consult
24 with representatives of the United States cotton in-
25 dustry.

1 “(2) EXEMPTION.—The Federal Advisory Com-
2 mittee Act (5 U.S.C. App.) shall not apply to con-
3 sultations with representatives of the United States
4 cotton industry under this section.

5 “(d) CREDITING OF FEES.—Any fees collected under
6 this section and under section 3d, late payment penalties,
7 the proceeds from the sales of samples, and interest
8 earned from the investment of such funds shall—

9 “(1) be credited to the current appropriation
10 account that incurs the cost of services provided
11 under this section and section 3d; and

12 “(2) remain available without fiscal year limita-
13 tion to pay the expenses of the Secretary in pro-
14 viding those services.

15 “(e) INVESTMENT OF FUNDS.—Funds described in
16 subsection (d) may be invested—

17 “(1) by the Secretary in insured or fully
18 collateralized, interest-bearing accounts; or

19 “(2) at the discretion of the Secretary, by the
20 Secretary of the Treasury in United States Govern-
21 ment debt instruments.

22 “(f) LEASE AGREEMENTS.—Notwithstanding any
23 other provision of law, the Secretary may enter into long-
24 term lease agreements that exceed 5 years or may take
25 title to property (including through purchase agreements)

1 for the purpose of obtaining offices to be used for the clas-
2 sification of cotton in accordance with this Act, if the Sec-
3 retary determines that action would best effectuate the
4 purposes of this Act.

5 “(g) AUTHORIZATION OF APPROPRIATIONS.—To the
6 extent that financing is not available from fees and the
7 proceeds from the sales of samples, there are authorized
8 to be appropriated such sums as are necessary to carry
9 out this section.”.

10 **SEC. 1713. DESIGNATION OF STATES FOR COTTON RE-**
11 **SEARCH AND PROMOTION.**

12 Section 17(f) of the Cotton Research and Promotion
13 Act (7 U.S.C. 2116(f)) is amended—

14 (1) by striking “(f) The term” and inserting
15 the following:

16 “(f) COTTON-PRODUCING STATE.—

17 “(1) IN GENERAL.—The term”;

18 (2) by striking “more, and the term” and all
19 that follows through the end of the subsection and
20 inserting the following: “more.

21 “(2) INCLUSIONS.—The term ‘cotton-producing
22 State’ includes—

23 “(A) any combination of States described
24 in paragraph (1); and

1 “(B) effective beginning with the 2008
2 crop of cotton, the States of Kansas, Virginia,
3 and Florida.”.

4 **SEC. 1714. GOVERNMENT PUBLICATION OF COTTON PRICE**
5 **FORECASTS.**

6 Section 15 of the Agricultural Marketing Act (12
7 U.S.C. 1141j) is amended—

8 (1) by striking subsection (d); and

9 (2) by redesignating subsections (e) through (g)
10 as subsections (d) through (f), respectively.

11 **SEC. 1715. STATE, COUNTY, AND AREA COMMITTEES.**

12 Section 8(b)(5)(B)(ii) of the Soil Conservation and
13 Domestic Allotment Act (16 U.S.C. 590h(b)(5)(B)(ii)) is
14 amended—

15 (1) by redesignating subclauses (I) and (II) as
16 items (aa) and (bb), respectively, and indenting ap-
17 propriately;

18 (2) in the matter preceding item (aa) (as redес-
19 igned by paragraph (1)), by striking “A committee
20 established” and inserting the following:

21 “(I) IN GENERAL.—Except as
22 provided in subclause (II), a com-
23 mittee established”; and

24 (3) by adding at the end the following:

1 “(II) COMBINATION OR CONSOLI-
2 DATION OF AREAS.—A committee es-
3 tablished by combining or consoli-
4 dating 2 or more county or area com-
5 mittees shall consist of not fewer than
6 3 nor more than 11 members that—

7 “(aa) are fairly representa-
8 tive of the agricultural producers
9 within the area covered by the
10 county, area, or local committee;
11 and

12 “(bb) are elected by the ag-
13 ricultural producers that partici-
14 pate or cooperate in programs
15 administered within the area
16 under the jurisdiction of the
17 county, area, or local committee.

18 “(III) REPRESENTATION OF SO-
19 CIALLY DISADVANTAGED FARMERS
20 AND RANCHERS.—The Secretary shall
21 ensure, to the extent practicable, that
22 representation of socially disadvan-
23 taged farmers and ranchers is main-
24 tained on combined or consolidated
25 committees.

1 “(IV) ELIGIBILITY FOR MEMBER-
2 SHIP.—Notwithstanding any other
3 producer eligibility requirements for
4 service on county or area committees,
5 if a county or area is consolidated or
6 combined, a producer shall be eligible
7 to serve only as a member of the
8 county or area committee that the
9 producer elects to administer the farm
10 records of the producer.”.

11 **SEC. 1716. PROHIBITION ON CHARGING CERTAIN FEES.**

12 Public Law 108–470 (7 U.S.C. 7416a) is amended—

13 (1) in subsection (a), by striking “may” and in-
14 serting “shall”; and

15 (2) by adding at the end the following:

16 “(c) PROHIBITION ON CHARGING CERTAIN FEES.—

17 The Secretary may not charge any fees or related costs

18 for the collection of commodity assessments pursuant to

19 this Act.”.

20 **SEC. 1717. SIGNATURE AUTHORITY.**

21 In carrying out this title and title II and amendments

22 made by those titles, if the Secretary approves a document

23 containing signatures of program applicants, the Sec-

24 retary shall not subsequently determine the document is

25 inadequate or invalid because of the lack of authority of

1 any applicant signing the document on behalf of the appli-
2 cant or any other individual, entity, general partnership,
3 or joint venture, or the documents relied upon were deter-
4 mined inadequate or invalid, unless the applicant know-
5 ingly and willfully falsified the evidence of signature au-
6 thority or a signature.

7 **SEC. 1718. MODERNIZATION OF FARM SERVICE AGENCY.**

8 The Secretary shall modernize the Farm Service
9 Agency information technology and communication sys-
10 tems to ensure timely and efficient program delivery at
11 national, State, and County offices.

12 **SEC. 1719. GEOSPATIAL SYSTEMS.**

13 (a) IN GENERAL.—The Secretary shall ensure that
14 all agencies of the Department of Agriculture consolidate
15 the geospatial systems of the agencies into a single enter-
16 prise system that ensures that geospatial data is
17 shareable, portable, and standardized.

18 (b) REQUIREMENTS.—In carrying out subsection (a),
19 the Secretary shall—

20 (1) identify common datasets;

21 (2) give responsibility for managing each identi-
22 fied dataset to the agency best suited for collecting
23 and maintaining that data, as determined by the
24 Secretary; and

1 (3) make every effort to minimize the duplica-
2 tion of efforts.

3 (c) AVAILABILITY OF DATA.—The Secretary shall en-
4 sure, to the maximum extent practicable, that data is
5 readily available to all agencies beginning not later than
6 2 years after the date of enactment of this Act.

7 **SEC. 1720. LEASING OFFICE SPACE.**

8 The Secretary may use the funds, facilities, and au-
9 thorities of the Commodity Credit Corporation to lease
10 space for use by agencies of the Department of Agri-
11 culture in cases in which office space would be jointly oc-
12 cupied by the agencies.

13 **SEC. 1721. REPEALS.**

14 (a) COMMISSION ON APPLICATION OF PAYMENT LIM-
15 ITATIONS.—Section 1605 of the Farm Security and Rural
16 Investment Act of 2002 (7 U.S.C. 7993) is repealed.

17 (b) RENEWED AVAILABILITY OF MARKET LOSS AS-
18 SISTANCE AND CERTAIN EMERGENCY ASSISTANCE TO
19 PERSONS THAT FAILED TO RECEIVE ASSISTANCE UNDER
20 EARLIER AUTHORITIES.—Section 1617 of the Farm Se-
21 curity and Rural Investment Act of 2002 (7 U.S.C. 8000)
22 is repealed.

1 **Subtitle F—Specialty Crop**
2 **Programs**

3 **SEC. 1801. DEFINITIONS.**

4 In this subtitle:

5 (1) **SPECIALTY CROP.**—The term “specialty
6 crop” means fruits, vegetables, tree nuts, dried
7 fruits, nursery crops, floriculture, and horticulture,
8 including turfgrass sod.

9 (2) **STATE.**—The term “State” means each of
10 the several States of the United States.

11 (3) **STATE DEPARTMENT OF AGRICULTURE.**—
12 The term “State department of agriculture” means
13 the agency, commission, or department of a State
14 government responsible for protecting and promoting
15 agriculture in the State.

16 **PART I—MARKETING, INFORMATION, AND**
17 **EDUCATION**

18 **SEC. 1811. FRUIT AND VEGETABLE MARKET NEWS ALLOCA-**
19 **TION.**

20 (a) **IN GENERAL.**—The Secretary, acting through the
21 Administrator of the Agricultural Marketing Service, shall
22 carry out market news activities to provide timely price
23 information of United States fruits and vegetables in the
24 United States.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 \$9,000,000 for each of fiscal years 2008 through 2012,
4 to remain available until expended.

5 **SEC. 1812. FARMERS' MARKET PROMOTION PROGRAM.**

6 Section 6 of the Farmer-to-Consumer Direct Mar-
7 keting Act of 1976 (7 U.S.C. 3005) is amended—

8 (1) in subsection (a), by inserting “and to pro-
9 mote direct producer-to-consumer marketing” before
10 the period at the end;

11 (2) in subsection (b)(1)(B), by striking “infra-
12 structure” and inserting “marketing opportunities”;

13 (3) in subsection (c)(1), by inserting “or a pro-
14 ducer network or association” after “cooperative”;
15 and

16 (4) by striking subsection (e) and inserting the
17 following:

18 “(e) FUNDING.—Of the funds of the Commodity
19 Credit Corporation, the Secretary shall use to carry out
20 this section—

21 “(1) \$5,000,000 for each of fiscal years 2008
22 through 2011; and

23 “(2) \$10,000,000 for fiscal year 2012.”.

1 **SEC. 1813. FOOD SAFETY INITIATIVES.**

2 (a) INITIATIVE AUTHORIZED.—The Secretary may
3 carry out a food safety education program to educate the
4 public and persons in the fresh produce industry about—

5 (1) scientifically proven practices for reducing
6 microbial pathogens on fresh produce; and

7 (2) methods of reducing the threat of cross-con-
8 tamination of fresh produce through unsanitary han-
9 dling practices.

10 (b) COOPERATION.—The Secretary may carry out the
11 education program in cooperation with public and private
12 partners.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
14 authorized to be appropriated to the Secretary to carry
15 out this section \$1,000,000.

16 **SEC. 1814. CENSUS OF SPECIALTY CROPS.**

17 (a) ESTABLISHMENT.—Not later than September 30,
18 2008, and each 5 years thereafter, the Secretary shall con-
19 duct a census of specialty crops to assist in the regularly
20 development and dissemination of information relative to
21 specialty crops.

22 (b) RELATION TO OTHER CENSUS.—The Secretary
23 may include the census of specialty crops in the census
24 on agriculture.

1 **PART II—ORGANIC PRODUCTION**

2 **SEC. 1821. ORGANIC DATA COLLECTION AND PRICE RE-**
3 **PORTING.**

4 Section 2104 of the Organic Foods Production Act
5 of 1990 (7 U.S.C. 6503) is amended by adding at the end
6 the following:

7 “(e) DATA COLLECTION AND PRICE REPORTING.—
8 Of the funds of the Commodity Credit Corporation, the
9 Secretary shall use \$5,000,000 for the period of fiscal
10 years 2008 through 2012—

11 “(1) to collect data relating to organic agri-
12 culture;

13 “(2) to identify and publish organic production
14 and market data initiatives and surveys;

15 “(3) to expand, collect, and publish organic cen-
16 sus data analyses;

17 “(4) to fund comprehensive reporting of prices
18 relating to organically-produced agricultural prod-
19 ucts;

20 “(5) to conduct analysis relating to organic pro-
21 duction, handling, distribution, retail, and trend
22 studies;

23 “(6) to study and perform periodic updates on
24 the effects of organic standards on consumer behav-
25 ior; and

1 “(7) to conduct analyses for organic agriculture
2 using the national crop table.”.

3 **SEC. 1822. EXEMPTION OF CERTIFIED ORGANIC PRODUCTS**
4 **FROM ASSESSMENTS.**

5 Section 501(e) of the Federal Agriculture Improve-
6 ment and Reform Act of 1996 (7 U.S.C. 7401(e)) is
7 amended by striking paragraph (1) and inserting the fol-
8 lowing:

9 “(1) IN GENERAL.—Notwithstanding any provi-
10 sion of a commodity promotion law, a person that
11 produces and markets organic products shall be ex-
12 empt from the payment of an assessment under a
13 commodity promotion law with respect to that por-
14 tion of agricultural commodities that the person—

15 “(A) produces on a certified organic farm
16 (as defined in section 2103 of the Organic
17 Foods Production Act of 1990 (7 U.S.C. 6502);
18 and

19 “(B) produces or markets as organically
20 produced (as so defined).”.

21 **SEC. 1823. NATIONAL ORGANIC CERTIFICATION COST**
22 **SHARE PROGRAM.**

23 Section 10606 of the Farm Security and Rural In-
24 vestment Act of 2002 (7 U.S.C. 6523) is amended to read
25 as follows:

1 **“SEC. 10606. NATIONAL ORGANIC CERTIFICATION COST-**
2 **SHARE PROGRAM.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) PROGRAM.—The term ‘program’ means
5 the national certification cost-share program estab-
6 lished under subsection (b).

7 “(2) SECRETARY.—The term ‘Secretary’ means
8 the Secretary of Agriculture, acting through the Ag-
9 ricultural Marketing Service.

10 “(b) ESTABLISHMENT.—The Secretary shall use
11 amounts made available under subsection (f) to establish
12 a national organic certification cost-share program under
13 which the Secretary shall make payments to States to as-
14 sist producers and handlers of agricultural products in ob-
15 taining certification under the national organic production
16 program established under the Organic Foods Production
17 Act of 1990 (7 U.S.C. 6501 et seq.).

18 “(c) FEDERAL SHARE.—

19 “(1) IN GENERAL.—Subject to paragraph (2),
20 the Secretary shall pay under this section not more
21 than 75 percent of the costs incurred by a producer
22 or handler in obtaining certification under the na-
23 tional organic production program, as certified to
24 and approved by the Secretary.

1 “(2) MAXIMUM AMOUNT.—The maximum
2 amount of a payment made to a producer or handler
3 under this section shall be \$750.

4 “(d) RECORDKEEPING REQUIREMENTS.—

5 “(1) IN GENERAL.—The Secretary shall—

6 “(A) keep accurate, up-to-date records of
7 requests and disbursements from the program;
8 and

9 “(B) require accurate and consistent rec-
10 ordkeeping from each State and entity that re-
11 ceives program payments.

12 “(2) FEDERAL REQUIREMENTS.—Not later
13 than 30 days after the last day on which a State
14 may request funding under the program, the Sec-
15 retary shall—

16 “(A) determine the number of States re-
17 questing funding and the amount of each re-
18 quest; and

19 “(B) distribute the funding to the States.

20 “(3) STATE REQUIREMENTS.—An annual fund-
21 ing request from a State shall include data from the
22 program during the preceding year, including—

23 “(A) a description of—

24 “(i) the entities that requested reim-
25 bursement;

1 “(ii) the amount of each reimburse-
2 ment request; and

3 “(iii) any discrepancies between the
4 amount requested and the amount pro-
5 vided;

6 “(B) data to support increases in requests
7 expected in the coming year, including informa-
8 tion from certifiers or other data showing
9 growth projections; and

10 “(C) an explanation of any case in which
11 an annual request is lower than the request of
12 the preceding year.

13 “(e) REPORTING.—Not later than March 1 of each
14 year, the Secretary shall submit to Congress a report that
15 describes the expenditures for each State under the pro-
16 gram during the previous fiscal year, including the number
17 of producers and handlers served by the program in the
18 previous fiscal year.

19 “(f) FUNDING.—

20 “(1) IN GENERAL.—Not later than 30 days
21 after the date of enactment of the Food and Energy
22 Security Act of 2007, out of any funds in the Treas-
23 ury not otherwise appropriated, the Secretary of the
24 Treasury shall transfer to the Secretary of Agri-

1 culture to carry out this section \$22,000,000, to re-
2 main available until expended.

3 “(2) RECEIPT AND ACCEPTANCE.—The Sec-
4 retary shall be entitled to receive, shall accept, and
5 shall use to carry out this section the funds trans-
6 ferred under paragraph (1), without further appro-
7 priation.”.

8 **SEC. 1824. NATIONAL ORGANIC PROGRAM.**

9 Section 2123 of the Organic Foods Production Act
10 of 1990 (7 U.S.C. 6522) is amended—

11 (1) by striking “There are” and inserting the
12 following:

13 “(a) IN GENERAL.—There are”; and

14 (2) by adding at the end the following:

15 “(b) NATIONAL ORGANIC PROGRAM.—Notwith-
16 standing any other provision of law, in order to carry out
17 the activities of the Agricultural Marketing Service under
18 the national organic program established under this title,
19 there are authorized to be appropriated—

20 “(1) \$5,000,000 for fiscal year 2008;

21 “(2) \$6,500,000 for fiscal year 2009;

22 “(3) \$8,000,000 for fiscal year 2010;

23 “(4) \$9,500,000 for fiscal year 2011; and

24 “(5) \$11,000,000 for fiscal year 2012.”.

1 **PART III—INTERNATIONAL TRADE**

2 **SEC. 1831. FOREIGN MARKET ACCESS STUDY AND STRAT-**
3 **EGY PLAN.**

4 (a) DEFINITION OF URUGUAY ROUND AGREE-
5 MENTS.—In this section, the term “Uruguay Round
6 Agreements” includes any agreement described in section
7 101(d) of the Uruguay Round Agreements Act (19 U.S.C.
8 3511(d)).

9 (b) STUDY.—The Comptroller General of the United
10 States shall study—

11 (1) the extent to which United States specialty
12 crops have or have not benefitted from any reduc-
13 tions of foreign trade barriers, as provided for in the
14 Uruguay Round Agreements; and

15 (2) the reasons why United States specialty
16 crops have or have not benefitted from such trade-
17 barrier reductions.

18 (c) STRATEGY PLAN.—The Secretary shall prepare
19 a foreign market access strategy plan based on the study
20 in subsection (b), to increase exports of specialty crops,
21 including an assessment of the foreign trade barriers that
22 are incompatible with the Uruguay Round Agreements
23 and a strategy for removing those barriers.

24 (d) REPORT.—Not later than 18 months after the
25 date of enactment of this Act—

1 (1) the Comptroller General shall submit to
2 Congress a report that contains the results of the
3 study; and

4 (2) the Secretary shall submit to Congress the
5 strategy plan.

6 **SEC. 1832. MARKET ACCESS PROGRAM.**

7 Section 211(c) of the Agricultural Trade Act of 1978
8 (7 U.S.C. 5641(c)) is amended by adding at the end the
9 following:

10 “(3) MINIMUM ALLOCATION FOR SALE AND EX-
11 PORT PROPOSAL.—

12 “(A) IN GENERAL.—In providing funds
13 under paragraph (2), to the maximum extent
14 practicable, the Secretary shall use not less
15 than 50 percent of any of the funds made avail-
16 able in excess of \$200,000,000 to carry out the
17 market access program each fiscal year to pro-
18 vide assistance for proposals submitted by eligi-
19 ble trade organizations to promote the sale and
20 export of specialty crops.

21 “(B) UNALLOCATED FUNDS.—If, by
22 March 31 of any fiscal year, the Secretary de-
23 termines that the total amount of funds made
24 available to carry out the market access pro-
25 gram are in excess of the amounts necessary to

1 promote the sale and export of specialty crops
2 during the fiscal year, the Secretary may use
3 the excess funds to provide assistance for any
4 other proposals submitted by eligible trade or-
5 ganizations consistent with the priorities de-
6 scribed in paragraph (2).”.

7 **SEC. 1833. TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.**

8 Section 3205 of the Farm Security and Rural Invest-
9 ment Act of 2002 (7 U.S.C. 5680) is amended by striking
10 subsection (d) and inserting the following:

11 “(d) PETITION.—A participant in the program may
12 petition the Secretary for an extension of a project carried
13 out under this section that exceeds, or will exceed, applica-
14 ble time restrictions.

15 “(e) FUNDING.—

16 “(1) IN GENERAL.—The Secretary shall make
17 available to carry out the program under this sec-
18 tion—

19 “(A) \$6,800,000 of funds of, or an equal
20 value of commodities owned by, the Commodity
21 Credit Corporation for each of fiscal years 2008
22 through 2011; and

23 “(B) \$2,000,000 of funds of, or an equal
24 value of commodities owned by, the Commodity

1 Credit Corporation for fiscal year 2012 and
2 each subsequent fiscal year.

3 “(2) CARRYOVER OF UNOBLIGATED FUNDS.—

4 In a case in which the total amount of funds or com-
5 modities made available under paragraph (1) for a
6 fiscal year is not obligated in that fiscal year, the
7 Secretary shall make available in the subsequent fis-
8 cal year an amount equal to—

9 “(A) the amount made available for the
10 fiscal year under paragraph (1); plus

11 “(B) the amount not obligated in the pre-
12 vious fiscal year.”

13 **SEC. 1834. CONSULTATIONS ON SANITARY AND**
14 **PHYTOSANITARY RESTRICTIONS FOR FRUITS**
15 **AND VEGETABLES.**

16 (a) CONSULTATIONS ON SANITARY AND
17 PHYTOSANITARY RESTRICTIONS FOR FRUITS AND VEGE-
18 TABLES.—To the maximum extent practicable, the Sec-
19 retary shall consult with interested persons, and conduct
20 annual briefings, on sanitary and phytosanitary trade
21 issues, including—

22 (1) the development of a strategic risk manage-
23 ment framework; and

24 (2) as appropriate, implementation of peer re-
25 view for risk analysis.

1 (b) SPECIAL CONSULTATIONS ON IMPORT-SENSITIVE
2 PRODUCTS.—Section 2104(b)(2)(A)(ii)(II) of the Bipar-
3 tisan Trade Promotion Authority Act of 2002 (19 U.S.C.
4 3804(b)(2)(A)(ii)(II)) is amended—

5 (1) by striking “whether the products so identi-
6 fied” and inserting “whether—

7 “(aa) the products so identi-
8 fied”; and

9 (2) by adding at the end the following:

10 “(bb) any fruits or vegeta-
11 bles so identified are subject to
12 or likely to be subject to unjusti-
13 fied sanitary or phytosanitary re-
14 strictions, including restrictions
15 not based on scientific principles
16 in contravention of the Uruguay
17 Round Agreements, as deter-
18 mined by the United States
19 Trade Representative Technical
20 Advisory Committee for Trade in
21 Fruits and Vegetables of the De-
22 partment of Agriculture; and”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 subsection (b) apply with respect to the initiation of nego-
25 tiations to enter into any trade agreement that is subject

1 to section 2103(b) of the Bipartisan Trade Promotion Au-
2 thority Act of 2002 (19 U.S.C. 3803(b)) on or after the
3 date of the enactment of this Act.

4 **PART IV—SPECIALTY CROPS COMPETITIVENESS**

5 **SEC. 1841. SPECIALTY CROP BLOCK GRANTS.**

6 (a) EXTENSION OF PROGRAM.—Section 101(a) of the
7 Specialty Crops Competitiveness Act of 2004 (7 U.S.C.
8 1621 note; Public Law 108–465) is amended by striking
9 “2009” and inserting “2012”.

10 (b) AVAILABILITY OF FUNDS.—Section 101 of the
11 Specialty Crops Competitiveness Act of 2004 (7 U.S.C.
12 1621 note; Public Law 108–465) is amended by striking
13 subsection (i) and inserting the following:

14 “(i) FUNDING.—Of the funds of the Commodity
15 Credit Corporation, the Secretary of Agriculture shall
16 make grants under this section, using—

17 “(1) \$60,000,000 for fiscal year 2008;

18 “(2) \$65,000,000 for fiscal year 2009;

19 “(3) \$70,000,000 for fiscal year 2010;

20 “(4) \$75,000,000 for fiscal year 2011; and

21 “(5) \$0 for fiscal year 2012.”.

22 (c) CONFORMING AMENDMENTS.—Section 101 of the
23 Specialty Crops Competitiveness Act of 2004 (7 U.S.C.
24 1621 note; Public Law 108–465) is amended—

1 (1) in subsection (a), by striking “Subject to
2 the appropriation of funds to carry out this section”
3 and inserting “Using the funds made available
4 under subsection (i)”;

5 (2) in subsection (b), by striking “appropriated
6 pursuant to the authorization of appropriations in”
7 and inserting “made available under”;

8 (3) by striking subsection (c) and inserting the
9 following:

10 “(c) **MINIMUM GRANT AMOUNT.**—Notwithstanding
11 subsection (b), each State shall receive a grant under this
12 section for each fiscal year in an amount that is at least
13 ½ of 1 percent of the total amount of funding made avail-
14 able to carry out this section for the fiscal year.”;

15 (4) by redesignating subsection (i) as subsection
16 (j); and

17 (5) by inserting after subsection (h) the fol-
18 lowing:

19 “(i) **REALLOCATION.**—The Secretary may reallocate
20 to other States any amounts made available under this
21 section that are not obligated or expended by a date deter-
22 mined by the Secretary.”.

23 (d) **DEFINITION OF SPECIALTY CROP.**—Section 3(1)
24 of the Specialty Crops Competitiveness Act of 2004 (7

1 U.S.C. 1621 note; Public Law 108–465) is amended by
2 inserting “horticulture and” before “nursery”.

3 (e) DEFINITION OF STATE.—Section 3(2) of the Spe-
4 cialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621
5 note; Public Law 108–465) is amended by striking “and
6 the Commonwealth of Puerto Rico” and inserting “the
7 Commonwealth of Puerto Rico, Guam, American Samoa,
8 the United States Virgin Islands, and the Commonwealth
9 of the Northern Mariana Islands”.

10 **SEC. 1842. GRANT PROGRAM TO IMPROVE MOVEMENT OF**
11 **SPECIALTY CROPS.**

12 Title II of the Specialty Crops Competitiveness Act
13 of 2004 (Public Law 108–465; 118 Stat. 3884) is amend-
14 ed by adding at the end the following:

15 **“SEC. 204. GRANT PROGRAM TO IMPROVE MOVEMENT OF**
16 **SPECIALTY CROPS.**

17 “(a) IN GENERAL.—The Secretary of Agriculture
18 may make grants under this section to an eligible entity
19 described in subsection (b)—

20 “(1) to improve the cost-effective movement of
21 specialty crops to local, regional, national, and inter-
22 national markets; and

23 “(2) to address regional intermodal transpor-
24 tation deficiencies that adversely affect the move-

1 ment of specialty crops to markets inside or outside
2 the United States.

3 “(b) ELIGIBLE ENTITIES.—Grants may be made
4 under this section to—

5 “(1) a State or local government;

6 “(2) a grower cooperative;

7 “(3) a State or regional producer or shipper or-
8 ganization;

9 “(4) a combination of entities described in
10 paragraphs (1) through (3); or

11 “(5) other entities, as determined by the Sec-
12 retary.

13 “(c) MATCHING FUNDS.—As a condition of the re-
14 ceipt of a grant under this section, the recipient of a grant
15 under this section shall contribute an amount of non-Fed-
16 eral funds toward the project for which the grant is pro-
17 vided that is at least equal to the amount of grant funds
18 received by the recipient under this section.

19 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated such sums as are nec-
21 essary to carry out this section for each of fiscal years
22 2008 through 2012.”.

1 **SEC. 1843. HEALTHY FOOD ENTERPRISE DEVELOPMENT**
2 **CENTER.**

3 Title II of the Specialty Crops Competitiveness Act
4 of 2004 (Public Law 108–465; 118 Stat. 3884) (as
5 amended by section 1842) is amended by adding at the
6 end the following:

7 **“SEC. 205. HEALTHY FOOD ENTERPRISE DEVELOPMENT**
8 **CENTER.**

9 “(a) **DEFINITIONS.**—In this section:

10 “(1) **CENTER.**—The term ‘Center’ means the
11 healthy food enterprise development center estab-
12 lished under subsection (b).

13 “(2) **ELIGIBLE ENTITY.**—The term ‘eligible en-
14 tity’ means—

15 “(A) a nonprofit organization;

16 “(B) a cooperative;

17 “(C) a business;

18 “(D) an agricultural producer;

19 “(E) an academic institution;

20 “(F) an individual; and

21 “(G) such other entities as the Secretary
22 may designate.

23 “(3) **SECRETARY.**—The term ‘Secretary’ means
24 the Secretary of Agriculture.

25 “(4) **UNDERSERVED COMMUNITY.**—The term
26 ‘underserved community’ means a community (in-

1 cluding an urban or rural community and an Indian
2 tribal community) that, as determined by the Sec-
3 retary, has—

4 “(A) limited access to affordable, healthy
5 foods, including fresh fruits and vegetables;

6 “(B) a high incidence of a diet-related dis-
7 ease (including obesity) as compared to the na-
8 tional average;

9 “(C) a high rate of hunger or food insecu-
10 rity; or

11 “(D) severe or persistent poverty.

12 “(b) CENTER.—The Secretary, acting through the
13 Agricultural Marketing Service, shall offer to enter into
14 a contract with a nonprofit organization to establish and
15 support a healthy food enterprise development center to
16 increase access to healthy, affordable foods, such as fresh
17 fruit and vegetables, particularly for school-aged children
18 and individuals in low-income communities.

19 “(c) ACTIVITIES.—

20 “(1) PURPOSE.—The purpose of the Center is
21 to increase access to healthy affordable foods, in-
22 cluding locally produced agricultural products, to un-
23 derserved communities.

24 “(2) TECHNICAL ASSISTANCE AND INFORMA-
25 TION.—The Center shall collect, develop, and pro-

1 vide technical assistance and information to small
2 and mid-sized agricultural producers, food whole-
3 salers and retailers, schools, and other individuals
4 and entities regarding best practices and the avail-
5 ability of assistance for aggregating, storing, proc-
6 essing, and marketing locally produced agricultural
7 products and increasing the availability of the prod-
8 ucts in underserved communities.

9 “(d) **AUTHORITY TO SUBGRANT.**—The Center may
10 provide subgrants to eligible entities to carry out feasi-
11 bility studies to establish businesses to carry out the pur-
12 poses of this section.

13 “(e) **PRIORITY.**—In providing technical assistance
14 and grants under subsections (c)(2) and (d), the Center
15 shall give priority to applications that have components
16 that will—

17 “(1) benefit underserved communities; and

18 “(2) develop market opportunities for small and
19 mid-sized farm and ranch operations.

20 “(f) **REPORT.**—For each fiscal year for which the
21 nonprofit organization described in subsection (b) receives
22 funds, the organization shall submit to the Secretary a re-
23 port describing the activities carried out in the previous
24 fiscal year, including—

1 “(1) a description of technical assistance pro-
2 vided;

3 “(2) the total number and a description of the
4 subgrants provided under subsection (d);

5 “(3) a complete listing of cases in which the ac-
6 tivities of the Center have resulted in increased ac-
7 cess to healthy, affordable foods, such as fresh fruit
8 and vegetables, particularly for school-aged children
9 and individuals in low-income communities; and

10 “(4) a determination of whether the activities
11 identified in paragraph (3) are sustained in the
12 years following the initial provision of technical as-
13 sistance and subgrants under this section.

14 “(g) **COMPETITIVE AWARD PROCESS.**—The Sec-
15 retary shall use a competitive process to award funds to
16 establish the Center.

17 “(h) **FUNDING.**—Out of any funds in the Treasury
18 not otherwise appropriated, the Secretary of the Treasury
19 shall transfer to the Secretary to carry out this section—

20 “(1) \$1,000,000 for fiscal year 2009; and

21 “(2) \$2,000,000 for each of fiscal years 2010
22 through 2012.”.

1 **PART V—MISCELLANEOUS**

2 **SEC. 1851. CLEAN PLANT NETWORK.**

3 (a) IN GENERAL.—The Secretary shall establish a
4 program to be known as the “National Clean Plant Net-
5 work” (referred to in this section as the “Program”).

6 (b) REQUIREMENTS.—Under the Program, the Sec-
7 retary shall establish a network of clean plant centers for
8 diagnostic and pathogen elimination services to—

9 (1) produce clean propagative plant material;

10 and

11 (2) maintain blocks of pathogen-tested plant
12 material in sites located throughout the United
13 States.

14 (c) AVAILABILITY OF CLEAN PLANT SOURCE MATE-
15 RIAL.—Clean plant source material may be made available
16 to—

17 (1) a State for a certified plant program of the
18 State; and

19 (2) private nurseries and producers.

20 (d) CONSULTATION AND COLLABORATION.—In car-
21 rying out the Program, the Secretary shall—

22 (1) consult with State departments of agri-
23 culture and land grant universities; and

24 (2) to the extent practicable and with input
25 from the appropriate State officials and industry

1 the funds of the Commodity Credit Corporation to
2 carry out a program to provide market loss pay-
3 ments to producers of asparagus under this section.

4 (2) ALLOCATION.—Of the amount made avail-
5 able under paragraph (1), the Secretary shall use—

6 (A) \$7,500,000 to make payments to pro-
7 ducers of asparagus for the fresh market; and

8 (B) \$7,500,000 to make payments to pro-
9 ducers of asparagus for the processed or frozen
10 market.

11 **SEC. 1853. MUSHROOM PROMOTION, RESEARCH, AND CON-**
12 **SUMER INFORMATION.**

13 (a) REGIONS AND MEMBERS.—Section 1925(b)(2) of
14 the Mushroom Promotion, Research, and Consumer Infor-
15 mation Act of 1990 (7 U.S.C. 6104(b)(2)) is amended—

16 (1) in subparagraph (B), by striking “4 re-
17 gions” and inserting “3 regions”;

18 (2) in subparagraph (D), by striking
19 “35,000,000 pounds” and inserting “50,000,000
20 pounds”; and

21 (3) by striking subparagraph (E), and inserting
22 the following:

23 “(E) ADDITIONAL MEMBERS.—In addition
24 to the members appointed pursuant to para-
25 graph (1), and subject to the 9-member limita-

1 tion on members on the Council provided in
2 that paragraph, the Secretary shall appoint ad-
3 ditional members to the Council from a region
4 that attains additional pounds of production of
5 mushrooms as follows:

6 “(i) If the annual production of the
7 region is greater than 110,000,000
8 pounds, but not more than 180,000,000
9 pounds, the region shall be represented by
10 1 additional member.

11 “(ii) If the annual production of the
12 region is greater than 180,000,000
13 pounds, but not more than 260,000,000
14 pounds, the region shall be represented by
15 2 additional members.

16 “(iii) If the annual production of the
17 region is greater than 260,000,000
18 pounds, the region shall be represented by
19 3 additional members.”.

20 (b) **POWERS AND DUTIES OF COUNCIL.**—Section
21 1925(c) of the Mushroom Promotion, Research, and Con-
22 sumer Information Act of 1990 (7 U.S.C. 6104(c)) is
23 amended—

24 (1) by redesignating paragraphs (6), (7), and
25 (8) as paragraphs (7), (8), and (9), respectively; and

1 (2) by inserting after paragraph (5) the fol-
2 lowing:

3 “(6) to develop food safety programs, including
4 good agricultural practices and good handling prac-
5 tices or related activities for mushrooms;”.

6 **SEC. 1854. NATIONAL HONEY BOARD.**

7 Section 7(c) of the Honey Research, Promotion, and
8 Consumer Information Act (7 U.S.C. 4606(c)) is amended
9 by adding at the end the following:

10 “(12) REFERENDUM REQUIREMENT.—

11 “(A) IN GENERAL.—Notwithstanding any
12 other provision of law, subject to subparagraph
13 (B), the order providing for the establishment
14 and operation of the Honey Board in effect on
15 the date of enactment of this paragraph shall
16 continue in force, and the Secretary shall not
17 schedule or conduct any referendum on the con-
18 tinuation or termination of the order, until the
19 Secretary first conducts, at the earliest prac-
20 ticable date, concurrent referenda among all eli-
21 gible producers, importers, packers, and han-
22 dlers of honey for the purpose of ascertaining
23 whether eligible producers, importers, packers,
24 and handlers of honey approve of 1 or more or-

1 ders to establish successor marketing boards for
2 honey.

3 “(B) REQUIREMENTS.—In conducting con-
4 current referenda under subparagraph (A), the
5 Secretary shall ensure that—

6 “(i) a referendum of United States
7 honey producers for the establishment of a
8 marketing board solely for United States
9 honey producers is included in the process;
10 and

11 “(ii) the rights and interests of honey
12 producers, importers, packers, and han-
13 dlers of honey are protected in the transi-
14 tion to any new marketing board.”.

15 **SEC. 1855. IDENTIFICATION OF HONEY.**

16 Section 203(h) of the Agricultural Marketing Act of
17 1946 (7 U.S.C. 1622(h)) is amended—

18 (1) by designating the first through sixth sen-
19 tences as paragraphs (1), (2)(A), (2)(B), (3), (4),
20 and (5), respectively; and

21 (2) by adding at the end the following:

22 “(6) IDENTIFICATION OF HONEY.—The use of
23 a label or advertising material on, or in conjunction
24 with, packaged honey that bears any official certifi-
25 cate of quality, grade mark or statement, continuous

1 inspection mark or statement, sampling mark or
2 statement, or any combination of the certificates,
3 marks, or statements of the Department of Agri-
4 culture shall be considered a deceptive practice that
5 is prohibited under this Act unless there appears
6 legibly and permanently in close proximity to the
7 certificate, mark, or statement, and in at least a
8 comparable size, the 1 or more names of the 1 or
9 more countries of origin of the lot or container of
10 honey, preceded by ‘Product of’ or other words of
11 similar meaning.”.

12 **SEC. 1856. EXPEDITED MARKETING ORDER FOR HASS AVO-**
13 **CADOS FOR GRADES AND STANDARDS AND**
14 **OTHER PURPOSES.**

15 (a) IN GENERAL.—The Secretary shall initiate proce-
16 dures under the Agricultural Adjustment Act (7 U.S.C.
17 601 et seq.), reenacted with amendments by the Agricul-
18 tural Marketing Agreement Act of 1937, to determine
19 whether it would be appropriate to establish a Federal
20 marketing order for Hass avocados relating to grades and
21 standards and for other purposes under that Act.

22 (b) EXPEDITED PROCEDURES.—

23 (1) PROPOSAL FOR AN ORDER.—An organiza-
24 tion of domestic avocado producers in existence on
25 the date of enactment of this Act may request the

1 issuance of, and submit to the Secretary a proposal
2 for, an order described in subsection (a).

3 (2) PUBLICATION OF PROPOSAL.—Not later
4 than 60 days after the date on which the Secretary
5 receives a proposed order under paragraph (1), the
6 Secretary shall initiate procedures described in sub-
7 section (a) to determine whether the proposed order
8 should proceed.

9 (c) EFFECTIVE DATE.—Any order issued under this
10 section shall become effective not later than 15 months
11 after the date on which the Secretary initiates procedures
12 under the Agricultural Adjustment Act (7 U.S.C. 601 et
13 seq.), reenacted with amendments by the Agricultural
14 Marketing Agreement Act of 1937.

15 **Subtitle G—Risk Management**

16 **SEC. 1901. DEFINITION OF ORGANIC CROP.**

17 Section 502(b) of the Federal Crop Insurance Act (7
18 U.S.C. 1502(b)) is amended—

19 (1) by redesignating paragraphs (7) and (8) as
20 paragraphs (8) and (9), respectively; and

21 (2) by inserting after paragraph (6) the fol-
22 lowing:

23 “(7) ORGANIC CROP.—The term ‘organic crop’
24 means an agricultural commodity that is organically
25 produced consistent with section 2103 of the Or-

1 ganic Foods Production Act of 1990 (7 U.S.C.
2 6502).”.

3 **SEC. 1902. GENERAL POWERS.**

4 (a) IN GENERAL.—Section 506 of the Federal Crop
5 Insurance Act (7 U.S.C. 1506) is amended—

6 (1) in the first sentence of subsection (d), by
7 striking “The Corporation” and inserting “Subject
8 to section 508(j)(2)(A), the Corporation”; and

9 (2) by striking subsection (n).

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 506 of the Federal Crop Insurance
12 Act (7 U.S.C. 1506) is amended by redesignating
13 subsections (o), (p), and (q) as subsections (m), (n),
14 and (o), respectively.

15 (2) Section 521 of the Federal Crop Insurance
16 Act (7 U.S.C. 1521) is amended by striking the last
17 sentence.

18 **SEC. 1903. REDUCTION IN LOSS RATIO.**

19 (a) PROJECTED LOSS RATIO.—Subsection (o)(2) of
20 section 506 of the Federal Crop Insurance Act (7 U.S.C.
21 1506) (as redesignated by section 1902(b)(1)) is amend-
22 ed—

23 (1) in the paragraph heading, by striking “AS
24 OF OCTOBER 1, 1998”;

1 (2) by striking “, on and after October 1,
2 1998,”; and

3 (3) by striking “1.075” and inserting “1.0”.

4 (b) PREMIUMS REQUIRED.—Section 508(d)(1) of the
5 Federal Crop Insurance Act (7 U.S.C. 1508(d)(1)) is
6 amended by striking “not greater than” and all that fol-
7 lows and inserting “not greater than—

8 “(A) 1.1 through September 30, 1998;

9 “(B) 1.075 for the period beginning Octo-
10 ber 1, 1998, and ending on the date of enact-
11 ment of the Food and Energy Security Act of
12 2007; and

13 “(C) 1.0 on and after the date of enact-
14 ment of that Act.”.

15 **SEC. 1904. CONTROLLED BUSINESS INSURANCE.**

16 Section 508(a) of the Federal Crop Insurance Act (7
17 U.S.C. 1508(a) is amended by adding at the end the fol-
18 lowing:

19 “(9) COMMISSIONS.—

20 “(A) DEFINITION OF IMMEDIATE FAM-
21 ILY.—In this paragraph, the term ‘immediate
22 family’ means a person’s father, mother, step-
23 father, stepmother, brother, sister, stepbrother,
24 stepsister, son, daughter, stepson, stepdaughter,
25 grandparent, grandson, granddaughter, father-

1 in-law, mother-in-law, brother-in-law, sister-in-
2 law, son-in-law, daughter-in-law, the spouse of
3 the foregoing, and the person's spouse.

4 “(B) PROHIBITION.—No person may re-
5 ceive a commission or share of a commission for
6 any policy or plan of insurance offered under
7 this Act in which the person has a substantial
8 beneficial interest or in which a member of the
9 person's immediate family has a substantial
10 beneficial interest if, in a calendar year, the ag-
11 gregate of the commissions exceeds 30 percent
12 of the aggregate of all commissions received by
13 the person for any policy or plan of insurance
14 offered under this Act.

15 “(C) REPORTING.—On the completion of
16 the reinsurance year, any person that received
17 a commission or share of a commission for any
18 policy or plan of insurance offered under this
19 Act in the prior calendar year shall certify to
20 applicable approved insurance providers that
21 the person received the commissions in compli-
22 ance with this paragraph.

23 “(D) SANCTIONS.—The requirements and
24 sanctions prescribed in section 515(h) shall

1 apply to the prosecution of a violation of this
2 paragraph.

3 “(E) APPLICABILITY.—

4 “(i) IN GENERAL.—Sanctions for vio-
5 lations under this paragraph shall only
6 apply to the person directly responsible for
7 the certification required under subpara-
8 graph (C) or the failure to comply with the
9 requirements of this paragraph.

10 “(ii) PROHIBITION.—No sanctions
11 shall apply with respect to the policy or
12 plans of insurance upon which commissions
13 are received, including the reinsurance for
14 those policies or plans.”.

15 **SEC. 1905. ADMINISTRATIVE FEE.**

16 Section 508(b)(5) of the Federal Crop Insurance Act
17 (7 U.S.C. 1508(b)(5)) is amended—

18 (1) in subparagraph (A), by striking “\$100”
19 and inserting “\$200”; and

20 (2) in subparagraph (B)—

21 (A) by striking “PAYMENT ON BEHALF OF
22 PRODUCERS” and inserting “PAYMENT OF CAT-
23 ASTROPHIC RISK PROTECTION FEE ON BEHALF
24 OF PRODUCERS”;

25 (B) in clause (i)—

1 (i) by striking “or other payment”;

2 and

3 (ii) by striking “with catastrophic risk
4 protection or additional coverage” and in-
5 serting “through the payment of cata-
6 strophic risk protection administrative
7 fees”;

8 (C) by striking clauses (ii) and (vi);

9 (D) by redesignating clauses (iii), (iv), and
10 (v) as clauses (ii), (iii), and (iv), respectively;

11 (E) in clause (iii) (as so redesignated), by
12 striking “A policy or plan of insurance” and in-
13 serting “Catastrophic risk protection coverage”;
14 and

15 (F) in clause (iv) (as so redesignated)—

16 (i) by striking “or other arrangement
17 under this subparagraph”; and

18 (ii) by striking “additional”.

19 **SEC. 1906. TIME FOR PAYMENT.**

20 Section 508 of the Federal Crop Insurance Act (7
21 U.S.C. 1508) is amended—

22 (1) in subsection (d), by adding at the end the
23 following:

24 “(4) **TIME FOR PAYMENT.**—Effective beginning
25 with the 2012 reinsurance year, a producer that ob-

1 tains a policy or plan of insurance under this title
2 shall submit the required premium not later than
3 September 30 of the year for which the plan or pol-
4 icy of insurance was obtained.”; and

5 (2) in subsection (k)(4), by adding at the end
6 the following:

7 “(D) TIME FOR REIMBURSEMENT.—Effec-
8 tive beginning with the 2012 reinsurance year,
9 the Corporation shall reimburse approved insur-
10 ance providers and agents for the allowable ad-
11 ministrative and operating costs of the pro-
12 viders and agents as soon as practicable after
13 October 1 (but not later than October 31) of
14 the reinsurance year for which reimbursements
15 are earned.”.

16 **SEC. 1907. SURCHARGE PROHIBITION.**

17 Section 508(d) of the Federal Crop Insurance Act (7
18 U.S.C. 1508(d)) (as amended by section 1906(1)) is
19 amended by adding at the end the following:

20 “(5) SURCHARGE PROHIBITION.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), the Corporation may not re-
23 quire producers to pay a premium surcharge for
24 using scientifically-sound sustainable and or-
25 ganic farming practices and systems.

1 “(B) EXCEPTION.—

2 “(i) IN GENERAL.—A surcharge may
3 be required for individual organic crops on
4 the basis of significant, consistent, and
5 systemic increased risk factors (including
6 loss history) demonstrated by published
7 cropping system research (as applied to
8 crop types and regions) and other relevant
9 sources of information.

10 “(ii) CONSULTATION.—The Corpora-
11 tion shall evaluate the reliability of infor-
12 mation described in clause (i) in consulta-
13 tion with independent experts in the
14 field.”.

15 **SEC. 1908. PREMIUM REDUCTION PLAN.**

16 Section 508(e) of Federal Crop Insurance Act (7
17 U.S.C. 1508(e)) is amended by striking paragraph (3) and
18 inserting the following:

19 “(3) DISCOUNT STUDY.—

20 “(A) IN GENERAL.—The Secretary shall
21 commission an entity independent of the crop
22 insurance industry (with expertise that includes
23 traditional crop insurance) to study the feasi-
24 bility of permitting approved insurance pro-
25 viders to provide discounts to producers pur-

1 chasing crop insurance coverage without under-
2 mining the viability of the Federal crop insur-
3 ance program.

4 “(B) COMPONENTS.—The study should in-
5 clude—

6 “(i) an evaluation of the operation of
7 a premium reduction plan that examines—

8 “(I) the clarity, efficiency, and
9 effectiveness of the statutory language
10 and related regulations;

11 “(II) whether the regulations
12 frustrated the goal of offering pro-
13 ducers upfront, predictable, and reli-
14 able premium discount payments; and

15 “(III) whether the regulations
16 provided for reasonable, cost-effective
17 oversight by the Corporation of pre-
18 mium discounts offered by approved
19 insurance providers, including—

20 “(aa) whether the savings
21 were generated from verifiable
22 cost efficiencies adequate to off-
23 set the cost of discounts paid;
24 and

1 iciencies in past efforts to provide dis-
2 counted crop insurance to producers,

3 “(II) whether approved insurance
4 providers should be allowed to draw
5 on both administrative and operating
6 reimbursement and underwriting
7 gains to provide discounted crop in-
8 surance to producers; and

9 “(III) any other action that could
10 increase competition in the crop insur-
11 ance industry that will benefit pro-
12 ducers but not undermine the viability
13 of the Federal crop insurance pro-
14 gram.

15 “(C) REQUEST FOR PROPOSALS.—In devel-
16 oping the request for proposals for the study,
17 the Secretary shall consult with parties in the
18 crop insurance industry (including producers
19 and approved insurance providers and agents,
20 including providers and agents with experience
21 selling discount crop insurance products).

22 “(D) REVIEW OF STUDY.—The inde-
23 pendent entity selected by Secretary under sub-
24 paragraph (A) shall seek comments from inter-

1 ested stakeholders before finalizing the report
2 of the entity.

3 “(E) REPORT.—Not later than 18 months
4 after the date of enactment of the Food and
5 Energy Security Act of 2007, the Secretary
6 shall submit to the Committee on Agriculture of
7 the House of Representatives and the Com-
8 mittee on Agriculture, Nutrition, and Forestry
9 of the Senate a report that describes the results
10 and recommendations of the study.”.

11 **SEC. 1909. DENIAL OF CLAIMS.**

12 Section 508(j)(2)(A) of the Federal Crop Insurance
13 Act (7 U.S.C. 1508(j)(2)(A)) is amended by inserting “on
14 behalf of the Corporation” after “approved provider”.

15 **SEC. 1910. MEASUREMENT OF FARM-STORED COMMOD-**
16 **ITIES.**

17 Section 508(j) of the Federal Crop Insurance Act (7
18 U.S.C. 1508(j)) is amended by adding at the end the fol-
19 lowing:

20 “(5) MEASUREMENT OF FARM-STORED COM-
21 MODITIES.—Beginning with the 2009 crop year, for
22 the purpose of determining the amount of any in-
23 sured production loss sustained by a producer and
24 the amount of any indemnity to be paid under a
25 plan of insurance—

1 “(A) a producer may elect, at the expense
2 of the producer, to have the Farm Service
3 Agency measure the quantity of the commodity;
4 and

5 “(B) the results of the measurement shall
6 be used as the evidence of the quantity of the
7 commodity that was produced.”.

8 **SEC. 1911. REIMBURSEMENT RATE.**

9 Section 508(k)(4) of the Federal Crop Insurance Act
10 (7 U.S.C. 1508(k)(4)) is amended—

11 (1) in subparagraph (A), by striking “Except as
12 provided in subparagraph (B)” and inserting “Ex-
13 cept as otherwise provided in this paragraph”; and

14 (2) by adding at the end the following:

15 “(D) REIMBURSEMENT RATE FOR AREA
16 POLICIES AND PLANS OF INSURANCE.—Not-
17 withstanding subparagraphs (A) through (D),
18 for each of the 2009 and subsequent reinsur-
19 ance years, the reimbursement rate for area
20 policies and plans of insurance shall be 17 per-
21 cent of the premium used to define loss ratio
22 for that reinsurance year.”.

1 **SEC. 1912. RENEGOTIATION OF STANDARD REINSURANCE**
2 **AGREEMENT.**

3 Section 508(k) of the Federal Crop Insurance Act (7
4 U.S.C. 1508(k)) is amended by adding at the end the fol-
5 lowing:

6 “(8) RENEGOTIATION OF STANDARD REINSUR-
7 ANCE AGREEMENT.—

8 “(A) IN GENERAL.—Notwithstanding sec-
9 tion 536 of the Agricultural Research, Exten-
10 sion, and Education Reform Act of 1998 (7
11 U.S.C. 1506 note; Public Law 105-185) and
12 section 148 of the Agricultural Risk Protection
13 Act of 2000 (7 U.S.C. 1506 note; Public Law
14 106-224), the Corporation may renegotiate the
15 financial terms and conditions of each Standard
16 Reinsurance Agreement—

17 “(i) following the reinsurance year
18 ending June 30, 2012;

19 “(ii) once during each period of 5 re-
20 insurance years thereafter; and

21 “(iii) subject to subparagraph (B), in
22 any case in which the approved insurance
23 providers, as a whole, experience unex-
24 pected adverse circumstances, as deter-
25 mined by the Secretary.

1 “(B) NOTIFICATION REQUIREMENT.—If
2 the Corporation renegotiates a Standard Rein-
3 surance Agreement under subparagraph
4 (A)(iii), the Corporation shall notify the Com-
5 mittee on Agriculture of the House of Rep-
6 resentatives and the Committee on Agriculture,
7 Nutrition, and Forestry of the Senate of the re-
8 negotiation.

9 “(C) CONSULTATION.—The approved in-
10 surance providers may confer with each other
11 and collectively with the Corporation during any
12 renegotiation under subparagraph (A).”.

13 **SEC. 1913. CHANGE IN DUE DATE FOR CORPORATION PAY-**
14 **MENTS FOR UNDERWRITING GAINS.**

15 Section 508(k) of the Federal Crop Insurance Act (7
16 U.S.C. 1508(k)) (as amended by section 1912) is amended
17 by adding at the end the following:

18 “(9) DUE DATE FOR PAYMENT OF UNDER-
19 WRITING GAINS.—Effective beginning with the 2011
20 reinsurance year, the Corporation shall make pay-
21 ments for underwriting gains under this title on—

22 “(A) for the 2011 reinsurance year, Octo-
23 ber 1, 2012; and

24 “(B) for each reinsurance year thereafter,
25 October 1 of the following calendar year.”.

1 **SEC. 1914. ACCESS TO DATA MINING INFORMATION.**

2 (a) IN GENERAL.—Section 515(j)(2) of the Federal
3 Crop Insurance Act (7 U.S.C. 1515(j)(2)) is amended—

4 (1) by striking “The Secretary” and inserting
5 the following:

6 “(A) IN GENERAL.—The Secretary”; and

7 (2) by adding at the end the following:

8 “(B) ACCESS TO DATA MINING INFORMA-
9 TION.—

10 “(i) IN GENERAL.—The Secretary
11 shall establish a fee-for-access program
12 under which approved insurance providers
13 pay to the Secretary a user fee in exchange
14 for access to the data mining system estab-
15 lished under subparagraph (A) for the pur-
16 pose of assisting in fraud and abuse detec-
17 tion.

18 “(ii) PROHIBITION.—

19 “(I) IN GENERAL.—Except as
20 provided in subclause (II), the Cor-
21 poration shall not impose a require-
22 ment on approved insurance providers
23 to access the data mining system es-
24 tablished under subparagraph (A).

25 “(II) ACCESS WITHOUT FEE.—If
26 the Corporation requires approved in-

1 insurance providers to access the data
2 mining system established under sub-
3 paragraph (A), access will be provided
4 without charge to the extent necessary
5 to fulfill the requirements.

6 “(iii) ACCESS LIMITATION.—In estab-
7 lishing the program under clause (i), the
8 Secretary shall ensure that an approved in-
9 surance provider has access only to infor-
10 mation relating to the policies or plans of
11 insurance for which the approved insur-
12 ance provider provides insurance coverage,
13 including any information relating to—

14 “(I) information of agents and
15 adjusters relating to policies for which
16 the approved insurance provider pro-
17 vides coverage;

18 “(II) the other policies or plans
19 of an insured that are insured
20 through another approved insurance
21 providers; and

22 “(III) the policies or plans of an
23 insured for prior crop insurance
24 years.”.

1 (b) INSURANCE FUND.—Section 516 of the Federal
2 Crop Insurance Act (7 U.S.C. 1516) is amended—

3 (1) in subsection (b), by adding at the end the
4 following:

5 “(3) DATA MINING SYSTEM.—The Corporation
6 shall use amounts deposited in the insurance fund
7 established under subsection (c) from fees collected
8 under section 515(j)(2)(B) to administer and carry
9 out improvements to the data mining system under
10 that section.”; and

11 (2) in subsection (c)(1)—

12 (A) by striking “and civil” and inserting
13 “civil”; and

14 (B) by inserting “and fees collected under
15 section 515(j)(2)(B)(i),” after “section
16 515(h),”.

17 **SEC. 1915. PRODUCER ELIGIBILITY.**

18 Section 520(2) of the Federal Crop Insurance Act (7
19 U.S.C. 1520(2)) is amended by inserting “or is a person
20 who raises livestock owned by other persons (that is not
21 covered by insurance under this title by another person)”
22 after “sharecropper”.

23 **SEC. 1916. CONTRACTS FOR ADDITIONAL CROP POLICIES.**

24 Section 522(c) of the Federal Crop Insurance Act (7
25 U.S.C. 1522) is amended—

1 (1) by redesignating paragraph (10) as para-
2 graph (14); and

3 (2) by inserting after paragraph (9) the fol-
4 lowing:

5 “(10) ENERGY CROP INSURANCE POLICY.—

6 “(A) DEFINITION OF DEDICATED ENERGY
7 CROP.—In this subsection, the term ‘dedicated
8 energy crop’ means an annual or perennial crop
9 that—

10 “(i) is grown expressly for the purpose
11 of producing a feedstock for renewable
12 biofuel, renewable electricity, or bio-based
13 products; and

14 “(ii) is not typically used for food,
15 feed, or fiber.

16 “(B) AUTHORITY.—The Corporation shall
17 offer to enter into 1 or more contracts with
18 qualified entities to carry out research and de-
19 velopment regarding a policy to insure dedi-
20 cated energy crops.

21 “(C) RESEARCH AND DEVELOPMENT.—Re-
22 search and development described in subpara-
23 graph (B) shall evaluate the effectiveness of
24 risk management tools for the production of

1 dedicated energy crops, including policies and
2 plans of insurance that—

3 “(i) are based on market prices and
4 yields;

5 “(ii) to the extent that insufficient
6 data exist to develop a policy based on
7 market prices and yields, evaluate the poli-
8 cies and plans of insurance based on the
9 use of weather or rainfall indices to protect
10 the interests of crop producers; and

11 “(iii) provide protection for production
12 or revenue losses, or both.

13 “(11) AQUACULTURE INSURANCE POLICY.—

14 “(A) DEFINITION OF AQUACULTURE.—In
15 this subsection, the term ‘aquaculture’ has the
16 meaning given the term in section 321(d) of the
17 Consolidated Farm and Rural Development Act
18 (7 U.S.C. 1961(d)).

19 “(B) AUTHORITY.—The Corporation shall
20 offer to enter into 1 or more contracts with
21 qualified entities to carry out research and de-
22 velopment regarding a policy to insure aqua-
23 culture operations.

24 “(C) RESEARCH AND DEVELOPMENT.—Re-
25 search and development described in subpara-

1 graph (B) shall evaluate the effectiveness of
2 risk management tools for the production of
3 fish and other seafood in aquaculture oper-
4 ations, including policies and plans of insurance
5 that—

6 “(i) are based on market prices and
7 yields;

8 “(ii) to the extent that insufficient
9 data exist to develop a policy based on
10 market prices and yields, evaluate how best
11 to incorporate insuring of aquaculture op-
12 erations into existing policies covering ad-
13 justed gross revenue; and

14 “(iii) provide protection for production
15 or revenue losses, or both.

16 “(12) ORGANIC CROP PRODUCTION COVERAGE
17 IMPROVEMENTS.—

18 “(A) IN GENERAL.—Not later than 180
19 days after the date of enactment of this para-
20 graph, the Corporation shall offer to enter into
21 1 or more contracts with qualified entities for
22 the development of improvements in Federal
23 crop insurance policies covering organic crops.

24 “(B) PRICE ELECTION.—

1 “(i) IN GENERAL.—The contracts
2 under subparagraph (A) shall include the
3 development of procedures (including any
4 associated changes in policy terms or mate-
5 rials required for implementation of the
6 procedures) to offer producers of organic
7 crops a price election that would reflect the
8 actual retail or wholesale prices, as appro-
9 priate, received by producers for organic
10 crops, as established using data collected
11 and maintained by the Agricultural Mar-
12 keting Service.

13 “(ii) DEADLINE.—The development of
14 the procedures required under clause (i)
15 shall be completed not later than the date
16 necessary to allow the Corporation to offer
17 the price election—

18 “(I) beginning in the 2009 rein-
19 surance year for organic crops with
20 adequate data available; and

21 “(II) subsequently for additional
22 organic crops as data collection for
23 those organic crops is sufficient, as
24 determined by the Corporation.

25 “(13) SKIPROW CROPPING PRACTICES.—

1 “(A) IN GENERAL.—The Corporation shall
2 offer to enter into a contract with a qualified
3 entity to carry out research into needed modi-
4 fications of policies to insure corn and sorghum
5 produced in the Central Great Plains (as deter-
6 mined by the Agricultural Research Service)
7 through use of skiprow cropping practices.

8 “(B) RESEARCH.—Research described in
9 subparagraph (A) shall—

10 “(i) review existing research on
11 skiprow cropping practices and actual pro-
12 duction history of producers using skiprow
13 cropping practices; and

14 “(ii) evaluate the effectiveness of risk
15 management tools for producers using
16 skiprow cropping practices, including—

17 “(I) the appropriateness of rules
18 in existence as of the date of enact-
19 ment of this paragraph relating to the
20 determination of acreage planted in
21 skiprow patterns; and

22 “(II) whether policies for crops
23 produced through skiprow cropping
24 practices reflect actual production ca-
25 pabilities.”.

1 **SEC. 1917. RESEARCH AND DEVELOPMENT.**

2 (a) REIMBURSEMENT AUTHORIZED.—Section 522(b)
3 of the Federal Crop Insurance Act (7 U.S.C. 1522(b)) is
4 amended by striking paragraph (1) and inserting the fol-
5 lowing:

6 “(1) RESEARCH AND DEVELOPMENT REIM-
7 BURSEMENT.—The Corporation shall provide a pay-
8 ment to reimburse an applicant for research and de-
9 velopment costs directly related to a policy that—

10 “(A) is submitted to, and approved by, the
11 Board pursuant to a FCIC reimbursement
12 grant under paragraph (7); or

13 “(B) is—

14 “(i) submitted to the Board and ap-
15 proved by the Board under section 508(h)
16 for reinsurance; and

17 “(ii) if applicable, offered for sale to
18 producers.”.

19 (b) FCIC REIMBURSEMENT GRANTS.—Section
20 522(b) of the Federal Crop Insurance Act (7 U.S.C.
21 1522(b)) is amended by adding at the end the following:

22 “(7) FCIC REIMBURSEMENT GRANTS.—

23 “(A) GRANTS AUTHORIZED.—The Cor-
24 poration shall provide FCIC reimbursement
25 grants to persons (referred to in this paragraph
26 as ‘submitters’) proposing to prepare for sub-

1 mission to the Board crop insurance policies
2 and provisions under subparagraphs (A) and
3 (B) of section 508(h)(1), that apply and are ap-
4 proved for the FCIC reimbursement grants
5 under this paragraph.

6 “(B) SUBMISSION OF APPLICATION.—

7 “(i) IN GENERAL.—The Board shall
8 receive and consider applications for FCIC
9 reimbursement grants at least once each
10 year.

11 “(ii) REQUIREMENTS.—An application
12 to receive a FCIC reimbursement grant
13 from the Corporation shall consist of such
14 materials as the Board may require, in-
15 cluding—

16 “(I) a concept paper that de-
17 scribes the proposal in sufficient detail
18 for the Board to determine whether
19 the proposal satisfies the requirements
20 of subparagraph (C); and

21 “(II) a description of —

22 “(aa) the need for the prod-
23 uct, including an assessment of
24 marketability and expected de-
25 mand among affected producers;

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1 “(bb) support from pro-
2 ducers, producer organizations,
3 lenders, or other interested par-
4 ties; and

5 “(cc) the impact the product
6 would have on producers and on
7 the crop insurance delivery sys-
8 tem; and

9 “(III) a statement that no prod-
10 ucts are offered by the private sector
11 that provide the same benefits and
12 risk management services as the pro-
13 posal;

14 “(IV) a summary of data sources
15 available that demonstrate that the
16 product can reasonably be developed
17 and properly rated; and

18 “(V) an identification of the risks
19 the proposed product will cover and
20 an explanation of how the identified
21 risks are insurable under this title.

22 “(C) APPROVAL CONDITIONS.—

23 “(i) IN GENERAL.—A majority vote of
24 the Board shall be required to approve an

1 application for a FCIC reimbursement
2 grant.

3 “(ii) REQUIRED FINDINGS.—The
4 Board shall approve the application if the
5 Board finds that—

6 “(I) the proposal contained in the
7 application—

8 “(aa) provides coverage to a
9 crop or region not traditionally
10 served by the Federal crop insur-
11 ance program;

12 “(bb) provides crop insur-
13 ance coverage in a significantly
14 improved form;

15 “(cc) addresses a recognized
16 flaw or problem in the Federal
17 crop insurance program or an ex-
18 isting product;

19 “(dd) introduces a signifi-
20 cant new concept or innovation to
21 the Federal crop insurance pro-
22 gram; or

23 “(ee) provides coverage or
24 benefits not available from the
25 private sector;

1 “(II) the submitter demonstrates
2 the necessary qualifications to com-
3 plete the project successfully in a
4 timely manner with high quality;

5 “(III) the proposal is in the in-
6 terests of producers and can reason-
7 ably be expected to be actuarially ap-
8 propriate and function as intended;

9 “(IV) the Board determines that
10 the Corporation has sufficient avail-
11 able funding to award the FCIC reim-
12 bursement grant; and

13 “(V) the proposed budget and
14 timetable are reasonable.

15 “(D) PARTICIPATION.—

16 “(i) IN GENERAL.—In reviewing pro-
17 posals under this paragraph, the Board
18 may use the services of persons that the
19 Board determines appropriate to carry out
20 expert review in accordance with section
21 508(h).

22 “(ii) CONFIDENTIALITY.—All pro-
23 posals submitted under this paragraph
24 shall be treated as confidential in accord-
25 ance with section 508(h)(4).

1 “(E) ENTERING INTO AGREEMENT.—Upon
2 approval of an application, the Board shall offer
3 to enter into an agreement with the submitter
4 for the development of a formal submission that
5 meets the requirements for a complete submis-
6 sion established by the Board under section
7 508(h).

8 “(F) FEASIBILITY STUDIES.—

9 “(i) IN GENERAL.—In appropriate
10 cases, the Corporation may structure the
11 FCIC reimbursement grant to require, as
12 an initial step within the overall process,
13 the submitter to complete a feasibility
14 study, and report the results of the study
15 to the Corporation, prior to proceeding
16 with further development.

17 “(ii) MONITORING.—The Corporation
18 may require such other reports as the Cor-
19 poration determines necessary to monitor
20 the development efforts.

21 “(G) RATES.—Payment for work per-
22 formed by the submitter under this paragraph
23 shall be based on rates determined by the Cor-
24 poration for products—

1 “(i) submitted under section 508(h);

2 or

3 “(ii) contracted by the Corporation
4 under subsection (c).

5 “(H) TERMINATION.—

6 “(i) IN GENERAL.—The Corporation
7 or the submitter may terminate any FCIC
8 reimbursement grant at any time for just
9 cause.

10 “(ii) REIMBURSEMENT.—If the Cor-
11 poration or the submitter terminates the
12 FCIC reimbursement grant before final ap-
13 proval of the product covered by the grant,
14 the submitter shall be entitled to—

15 “(I) reimbursement of all eligible
16 costs incurred to that point; or

17 “(II) in the case of a fixed rate
18 agreement, payment of an appropriate
19 percentage, as determined by the Cor-
20 poration.

21 “(iii) DENIAL.—If the submitter ter-
22 minates development without just cause,
23 the Corporation may deny reimbursement
24 or recover any reimbursement already
25 made.

1 “(I) CONSIDERATION OF PRODUCTS.—The
2 Board shall consider any product developed
3 under this paragraph and submitted to the
4 Board under the rules the Board has estab-
5 lished for products submitted under section
6 508(h).”.

7 (c) CONFORMING AMENDMENTS.—Section
8 523(b)(10) of the Federal Crop Insurance Act (7 U.S.C.
9 1523(b)(10)) is amended by striking “(other than re-
10 search and development costs covered by section 522)”.

11 **SEC. 1918. FUNDING FROM INSURANCE FUND.**

12 Section 522(e) of the Federal Crop Insurance Act (7
13 U.S.C. 1522(e)) is amended—

14 (1) in paragraph (1), by striking
15 “\$10,000,000” and all that follows through the end
16 of the paragraph and inserting “\$7,500,000 for fis-
17 cal year 2008 and each subsequent fiscal year”;

18 (2) in paragraph (2)(A), by striking
19 “\$20,000,000 for” and all that follows through
20 “year 2004” and inserting “\$12,500,000 for fiscal
21 year 2008”; and

22 (3) in paragraph (3), by striking “the Corpora-
23 tion may use” and all that follows through the end
24 of the paragraph and inserting “the Corporation
25 may use—

1 “(A) not more than \$5,000,000 for each
2 fiscal year to improve program integrity, includ-
3 ing by—

4 “(i) increasing compliance-related
5 training;

6 “(ii) improving analysis tools and
7 technology regarding compliance;

8 “(iii) use of information technology,
9 as determined by the Corporation;

10 “(iv) identifying and using innovative
11 compliance strategies; and

12 “(B) any excess amounts to carry out
13 other activities authorized under this section.”.

14 **SEC. 1919. CAMELINA PILOT PROGRAM.**

15 (a) IN GENERAL.—Section 523 of the Federal Crop
16 Insurance Act (7 U.S.C. 1523) is amended by adding at
17 the end the following:

18 “(f) CAMELINA PILOT PROGRAM.—

19 “(1) IN GENERAL.—Beginning with the 2008
20 crop year, the Corporation shall establish a pilot
21 program under which producers or processors of
22 camelina may propose for approval by the Board
23 policies or plans of insurance for camelina, in ac-
24 cordance with section 508(h).

1 **SEC. 1920. CROP INSURANCE MEDIATION.**

2 Section 275 of the Department of Agriculture Reor-
3 ganization Act of 1994 (7 U.S.C. 6995) is amended—

4 (1) by striking “If an officer” and inserting the
5 following:

6 “(a) IN GENERAL.—If an officer”;

7 (2) by striking “With respect to” and inserting
8 the following:

9 “(b) FARM SERVICE AGENCY.—With respect to”;

10 (3) by striking “If a mediation”; and inserting
11 the following:

12 “(c) MEDIATION.—If a mediation”; and

13 (4) in subsection (c) (as so designated)—

14 (A) by striking “participant shall be of-
15 fered” and inserting “participant shall—

16 “(1) be offered”; and

17 (B) by striking the period at the end and
18 inserting the following: “; and

19 “(2) to the maximum extent practicable, be al-
20 lowed to use both informal agency review and medi-
21 ation to resolve disputes under that title.”.

1 **SEC. 1921. DROUGHT COVERAGE FOR AQUACULTURE**
2 **UNDER NONINSURED CROP ASSISTANCE**
3 **PROGRAM.**

4 Section 196(c)(2) of the Federal Agriculture Im-
5 provement and Reform Act of 1996 (7 U.S.C. 7333(c)(2))
6 is amended—

7 (1) by striking “On making” and inserting the
8 following:

9 “(A) IN GENERAL.—On making”; and

10 (2) by adding at the end the following:

11 “(B) AQUACULTURE PRODUCERS.—On
12 making a determination described in subsection
13 (a)(3) for aquaculture producers, the Secretary
14 shall provide assistance under this section to
15 aquaculture producers from all losses related to
16 drought.”.

17 **SEC. 1922. INCREASE IN SERVICE FEES FOR NONINSURED**
18 **CROP ASSISTANCE PROGRAM.**

19 Section 196(k)(1) of the Federal Agriculture Im-
20 provement and Reform Act of 1996 (7 U.S.C. 7333(k)(1))
21 is amended—

22 (1) in subparagraph (A), by striking “\$100”
23 and inserting “\$200”; and

24 (2) in subparagraph (B)—

25 (A) by striking “\$300” and inserting
26 “\$600”; and

1 (B) by striking “\$900” and inserting
2 “\$1,500”.

3 **SEC. 1923. DETERMINATION OF CERTAIN SWEET POTATO**
4 **PRODUCTION.**

5 Section 9001(d) of the U.S. Troop Readiness, Vet-
6 erans’ Care, Katrina Recovery, and Iraq Accountability
7 Appropriations Act, 2007 (Public Law 110–28; 121 Stat.
8 211) is amended—

9 (1) by redesignating paragraph (8) as para-
10 graph (9); and

11 (2) by inserting after paragraph (7) the fol-
12 lowing:

13 “(8) SWEET POTATOES.—

14 “(A) DATA.—In the case of sweet pota-
15 toes, any data obtained under a pilot program
16 carried out by the Risk Management Agency
17 shall not be considered for the purpose of deter-
18 mining the quantity of production under the
19 crop disaster assistance program established
20 under this section.

21 “(B) EXTENSION OF DEADLINE.—If this
22 paragraph is not implemented before the sign-
23 up deadline for the crop disaster assistance pro-
24 gram established under this section, the Sec-
25 retary shall extend the deadline for producers of

1 sweet potatoes to permit sign-up for the pro-
2 gram in accordance with this paragraph.”.

3 **SEC. 1924. PERENNIAL CROP REPORT.**

4 Not later than 180 days after the date of enactment
5 of this Act, the Secretary shall submit to the Committee
6 on Agriculture of the House of Representatives and the
7 Committee on Agriculture, Nutrition, and Forestry of the
8 Senate a report containing details about activities and ad-
9 ministrative options of the Federal Crop Insurance Cor-
10 poration and Risk Management Agency that address
11 issues relating to—

12 (1) declining yields on the actual production
13 histories of producers; and

14 (2) declining and variable yields for perennial
15 crops, including pecans.