



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250
July 3, 2008

MEMORANDUM FROM THE SECRETARY

SUBJECT: Food, Conservation, and Energy Act of 2008 – Effective Date and Date of Enactment

As you know, the Food, Conservation, and Energy Act (“FCEA”) has been enacted twice by the Congress, each time by overriding the President’s veto. The purpose of this memorandum is to clarify both the effective date and the date of enactment of FCEA for purposes of implementing its provisions.

FCEA was enacted initially on May 22, 2008, as H.R. 2419, Pub. L. No. 110-234 (“Farm Bill I”). Because Title III, Trade, had been inadvertently omitted from Farm Bill I, FCEA was then enacted a second time on June 18, 2008, as H.R. 6124, Pub. L. No. 110-246 (“Farm Bill II”). Farm Bill II repealed Farm Bill I, and then reenacted all the provisions contained in Farm Bill I, along with the inadvertently omitted Title III, with an effective date of May 22, except where otherwise specifically provided in Farm Bill II. Thus, **the general effective date of all 15 titles of FCEA is May 22, 2008.**

FCEA also includes two categories of provisions that are tied to **“the date of enactment of this Act,” i.e., Farm Bill II, which is June 18, 2008.** The first are transition provisions, such as section 1401(b) related to the sugar program, which provide for the continuation of programs for a certain period based on the terms and conditions applicable to the program “as in effect on the day before the date of enactment of this Act.” For this category, the law in effect on the day before enactment of Farm Bill II would be Farm Bill I, *including the transition provision itself*, and therefore should be read to apply the law as it existed on May 21, 2008 – *i.e.*, the result intended by Farm Bill I.

The second category of provisions tied to the date of enactment includes provisions requiring an action, or establishing eligibility for a program, within a certain period before, after, beginning, ending, or on “the date of enactment of this Act.” Since the date of enactment of Farm Bill II is June 18, 2008, you should begin counting as of that date to determine statutory timelines anchored by the phrase “date of enactment.”

If you have any questions regarding application of these conclusions to individual titles or sections of FCEA, please contact the Office of the General Counsel.

A handwritten signature in black ink, appearing to be the initials "ED" or similar.