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**CONFERENCE COMMITTEE PRINT**

**Title I – Commodity Programs**

**Comparing H.R. 2419, As Passed by the House  
And the Senate Amendment Thereto**

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# HOUSE BILL (H.R. 2419)

# SENATE AMENDMENT

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<p><b>SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.</b></p> <p>(a) <b>SHORT TITLE.</b>—This Act may be cited as the “Farm, Nutrition, and Bioenergy Act of 2007”.</p> <p>(b) <b>TABLE OF CONTENTS.</b>—The table of contents for this Act is as follows:</p> <p style="text-align: center;">* * * * *</p>	<p><b>SECTION 1. SHORT TITLE; TABLE OF CONTENTS.</b></p> <p>(a) <b>SHORT TITLE.</b> —This Act may be cited as the “Food and Energy Security Act of 2007”.</p> <p>(b) <b>TABLE OF CONTENTS.</b> —The table of contents of this Act is as follows:</p> <p style="text-align: center;">* * * * *</p>
<b>Title I Commodity Programs</b>	<b>TITLE I—PRODUCER INCOME PROTECTION PROGRAMS</b>
<p><b>SEC. 1001. DEFINITIONS.</b></p> <p>In this title:</p> <p>(1) <b>AGRICULTURAL ACT OF 1949.</b>—The term “Agricultural Act of 1949” means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 171 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301), section 1602(b) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7992(b)), and section 1502(b) of this Act.</p> <p>(2) <b>BASE ACRES.</b>—The term “base acres”, with respect to a covered commodity on a farm, means the number of acres established under sections 1101 and 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911, 7952), as in effect on the day before the date of the enactment of this Act, subject to any adjustment under section 1101 of this Act.</p> <p>(3) <b>COMPARABLE UNITED STATES QUALITY.</b>—The term “Comparable United States Quality”, with respect to upland cotton, means upland cotton classified as Middling (M) 1<sup>3</sup>/<sub>32</sub>-inch cotton with a micronaire of 3.7 to 4.2, strength 30 grams per tex, and uniformity of 83.</p> <p>(4) <b>COUNTER-CYCLICAL PAYMENT.</b>—The term “counter-cyclical payment” means a payment made to producers on a farm under section 1103 or 1104.</p> <p>(5) <b>COVERED COMMODITY.</b>—The term “covered commodity” means wheat, corn, grain sorghum, barley, oats, upland cotton, rice, soybeans, peanuts, and other oilseeds.</p> <p>(6) <b>DIRECT PAYMENT.</b>—The term “direct payment” means a payment made to producers on a farm under section 1102.</p>	<p><b>SEC. 1001. DEFINITIONS.</b></p> <p>In this title (other than part III of subtitle A):</p> <p>(1) <b>AVERAGE CROP REVENUE PAYMENT.</b>—The term “average crop revenue payment” means a payment made to producers on a farm under section 1401.</p> <p>(2) <b>BASE ACRES.</b>—The term “base acres”, with respect to a covered commodity on a farm, means the number of acres established under section 1101 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911) as in effect on the day before the date of enactment of this Act, subject to any adjustment under section 1101 of this Act.</p> <p>(3) <b>COUNTER-CYCLICAL PAYMENT.</b>—The term “counter-cyclical payment” means a payment made to producers on a farm under section 1104.</p> <p>(4) <b>COVERED COMMODITY.</b>—The term “covered commodity” means wheat, corn, grain sorghum, barley, oats, upland cotton, long grain rice, medium grain rice, pulse crops, soybeans, and other oilseeds.</p> <p>(5) <b>DIRECT PAYMENT.</b>—The term “direct payment” means a payment made to producers on a farm under section 1103.</p>

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(7) **EFFECTIVE PRICE.**—The term “effective price”, with respect to a covered commodity for a crop year, means the price calculated by the Secretary under section 1103 to determine whether counter-cyclical payments are required to be made for that crop year under that section.

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

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

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

(9) **FAR EAST PRICE.**—The term “Far East price” means the Friday through Thursday average price quotation for the three lowest-priced growths of upland cotton, as quoted for Middling (M) 1<sup>3</sup>/<sub>32</sub>-inch cotton, delivered C/F Far East.

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

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

(12) **PAYMENT ACRES.**—The term “payment acres”, with respect to a covered commodity on a farm, means 85 percent of the base acres for the covered commodity, on which direct payments and counter-cyclical payments are made.

(13) **PAYMENT YIELD.**—The term “payment yield” means the yield established for direct payments and counter-cyclical payments under section 1102 or 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912; 7952), as in effect on the day before the date of the enactment of this Act, for a farm for a covered commodity.

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

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

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

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

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

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

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

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

(12) **PAYMENT YIELD.**—The term “payment yield” means the yield established for direct payments and counter-cyclical payments under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912) as in effect on the day before the date of enactment of this Act, or under section 1102 of this Act, for a farm for a covered commodity.

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(14) **PRODUCER.**—

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

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

(i) not take into consideration the existence of a hybrid seed contract; and

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

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

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

(17) **TARGET PRICE.**—The term “target price” means the price per bushel (or other appropriate unit in the case of upland cotton, rice, peanuts, and other oilseeds) of a covered commodity used to determine the payment rate for counter-cyclical payments under section 1103.

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

(19) **UNITED STATES PREMIUM FACTOR.**—The term “United States Premium Factor” means the percentage by which the difference in the United States loan schedule premiums for Strict Middling (SM) 11/8 -inch cotton and for M 13/32 -inch exceeds the difference in the applicable premiums for comparable international qualities delivered

(13) **PRODUCER.**—

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

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

(i) not take into consideration the existence of a hybrid seed contract; and

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

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

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

In this Act, the term “Secretary” means the Secretary of Agriculture.

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

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

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

(16) **TARGET PRICE.**—The term “target price” means the price per bushel, pound, or hundredweight (or other appropriate unit) of a covered commodity used to determine the payment rate for counter-cyclical payments.

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

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C/F Far East.	
<b>Subtitle A—Direct Payments and Counter-Cyclical Payments</b>	<b>Subtitle A—Traditional Payments and Loans PART I—DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS</b>
<p><b>SEC. 1101. ADJUSTMENTS TO BASE ACRES.</b></p> <p>(a) <b>TREATMENT OF CONSERVATION RESERVE CONTRACT ACREAGE.—</b></p> <p>(1) <b>IN GENERAL.—</b>The Secretary shall provide for an adjustment, as appropriate, in the base acres for covered commodities for a farm whenever either of the following circumstances occurs:</p> <p>(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated.</p> <p>(B) Cropland is released from coverage under a conservation reserve contract by the Secretary.</p> <p>(2) <b>SPECIAL PAYMENT RULES.—</b>For the crop year in which a base acres adjustment under paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.</p> <p>(b) <b>PREVENTION OF EXCESS BASE ACRES.—</b></p> <p>(1) <b>REQUIRED REDUCTION.—</b>If the sum of the base acres for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for 1 or more covered commodities for the farm so that the sum of the base acres and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.</p> <p>(2) <b>OTHER ACREAGE.—</b>For purposes of paragraph (1), the Secretary shall include the following:</p>	<p><b>SEC. 1101. BASE ACRES AND PAYMENT ACRES FOR A FARM.</b></p> <p>(a) <b>ADJUSTMENT OF BASE ACRES.—</b></p> <p>(1) <b>IN GENERAL.—</b>The Secretary shall provide for an adjustment, as appropriate, in the base acres for covered commodities for a farm whenever the following circumstances occurs:</p> <p>(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated.</p> <p>(B) Cropland is released from coverage under a conservation reserve contract by the Secretary.</p> <p>(C) The producer has eligible pulse crop or camelina acreage.</p> <p>(D) The producer has eligible oilseed acreage as the result of the Secretary designating additional oilseeds.</p> <p>(2) <b>SPECIAL CONSERVATION RESERVE ACREAGE PAYMENT RULES.—</b>For the crop year in which a base acres adjustment under subparagraph (A) or (B) of paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.</p> <p>(b) <b>PREVENTION OF EXCESS BASE ACRES.—</b></p> <p>(1) <b>REQUIRED REDUCTION.—</b>If the sum of the base acres for a farm, together with the acreage described in paragraph (2) exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for 1 or more covered commodities for the farm or the base acres for peanuts for the farm so that the sum of the base acres and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.</p> <p>(2) <b>OTHER ACREAGE.—</b>For purposes of paragraph (1), the Secretary shall include the following:</p> <p>(A) Any base acres for peanuts for the farm.</p>

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

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

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

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

(c) **PERMANENT REDUCTION IN BASE ACRES.**—

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

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

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

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

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

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

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

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

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

(c) **REDUCTION IN BASE ACRES.**—

(1) **REDUCTION AT OPTION OF OWNER.**—

(A) **IN GENERAL.**—The owner of a farm may reduce, at any time, the base acres for any covered commodity for the farm.

(B) **EFFECT OF REDUCTION.**—A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

(2) **REQUIRED ACTION BY SECRETARY.**—

(A) **IN GENERAL.**—The Secretary shall suspend all direct, counter-cyclical, and average crop revenue payments on base acres for covered commodities for land that is no longer a farming operation or used in conjunction with a farming



operation, as determined by the Secretary.

(B) **REDUCTION.**—The Secretary shall reduce base acres for covered commodities in a manner prescribed by the Secretary, for land that—

(i) has been developed for commercial or industrial use unless the producer demonstrates that the land remains devoted exclusively to agricultural production; or

(ii) has been subdivided and developed for multiple residential units or other nonfarming uses, unless the producer demonstrates that the land remains devoted exclusively to agricultural production.

(3) **REVIEW AND REPORT.**—Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall—

(A) track each reconstitution of land that is reported by a producer that is covered by paragraph (2);

(B) include in any end-of-the-year review for purposes of payment limitations or other compliance inspections or other actions taken by the Secretary, a review to ensure compliance with paragraph (2); and

(C) submit to Congress a report that describes the results of the actions taken under subparagraphs (A) and (B).

**SEC. 1102. PAYMENT YIELDS.**

(a) **ESTABLISHMENT AND PURPOSE.**—For the purpose of making direct payments and counter-cyclical payments under this subtitle, the Secretary shall provide for the establishment of a yield for each farm for any designated oilseed, camelina, or eligible pulse crop for which a payment yield was not established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912) in accordance with this section.

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

(1) **DETERMINATION OF AVERAGE YIELD.**—In the case of designated oilseeds, camelina, and eligible pulse crops, the Secretary shall determine the average yield per planted acre for the designated oilseed, camelina, or pulse crop on a farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the

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designated oilseed, camelina, or pulse crop was zero.

**(2) ADJUSTMENT FOR PAYMENT YIELD.—**

**(A) IN GENERAL.—**The payment yield for a farm for a designated oilseed, camelina, or eligible pulse crop shall be equal to the product of the following:

(i) The average yield for the designated oilseed, camelina, or pulse crop determined under paragraph (1).

(ii) The ratio resulting from dividing the national average yield for the designated oilseed, camelina, or pulse crop for the 1981 through 1985 crops by the national average yield for the designated oilseed, camelina, or pulse crop for the 1998 through 2001 crops.

**(B) NO NATIONAL AVERAGE YIELD INFORMATION AVAILABLE.—**To the extent that national average yield information for a designated oilseed, camelina, or pulse crop is not available, the Secretary shall use such information as the Secretary determines to be fair and equitable to establish a national average yield under this section.

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

**(4) NO HISTORIC YIELD DATA AVAILABLE.—**In the case of establishing yields for designated oilseeds, camelina, and eligible pulse crops, if historic yield data is not available, the Secretary shall use the ratio for dry peas calculated under paragraph (2)(A)(ii) in determining the yields for designated oilseeds, camelina, and eligible pulse crops, as determined to be fair and equitable by the Secretary.

**SEC. 1102. AVAILABILITY OF DIRECT PAYMENTS.**

(a) **PAYMENT REQUIRED.—**For each of the 2008 through 2012 crop years of each covered commodity, the Secretary shall make direct payments to producers on farms for which payment yields and base acres are established.

(b) **PAYMENT RATE.—**The payment rates used to make direct payments with respect to

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

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

(b) **PAYMENT RATE.—**The payment rates used to make direct payments with respect to

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covered commodities for a crop year are as follows:

- (1) Wheat, \$0.52 per bushel.
- (2) Corn, \$0.28 per bushel.
- (3) Grain sorghum, \$0.35 per bushel.
- (4) Barley, \$0.24 per bushel.
- (5) Oats, \$0.024 per bushel.
- (6) Upland cotton, \$0.0667 per pound.
- (7) Rice, \$2.35 per hundredweight.
  
- (8) Soybeans, \$0.44 per bushel.
- (9) Other oilseeds, \$0.0080 per pound.
- (10) Peanuts, \$36.00 per ton.

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

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

(d) **TIME FOR PAYMENT.**—

(1) **IN GENERAL.**—In the case of each of the 2008 through 2012 crop years, the Secretary may not make direct payments before October 1 of the calendar year in which the crop of the covered commodity is harvested.

(2) **ADVANCE PAYMENTS.**—

(A) **OPTION.**—At the option of the producers on a farm, up to 22 percent of the direct payment for a covered commodity for any of the 2008 through 2011 crop years shall be paid to the producers in advance.

(B) **MONTH.**—

covered commodities for a crop year are as follows:

- (1) Wheat, \$0.52 per bushel.
- (2) Corn, \$0.28 per bushel.
- (3) Grain sorghum, \$0.35 per bushel.
- (4) Barley, \$0.24 per bushel.
- (5) Oats, \$0.024 per bushel.
- (6) Upland cotton, \$0.0667 per pound.
- (7) Long grain rice, \$2.35 per hundredweight.
- (8) Medium grain rice, \$2.35 per hundredweight.
- (9) Soybeans, \$0.44 per bushel.
- (10) Other oilseeds, \$0.80 per hundredweight.

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

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

(d) **TIME FOR PAYMENT.**—

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

(2) **ADVANCE PAYMENTS.**—

(A) **OPTION.**—At the option of the producers on a farm, the Secretary shall pay in advance up to 22 percent of the direct payment for a covered commodity for any of the 2008 through 2011 crop years to the producers on a farm.

(B) **MONTH.**—

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(i) **SELECTION.**—The producers shall select the month within which the advance payment for a crop year will be made.

(ii) **OPTIONS.**—The month selected may be any month during the period beginning on December 1 of the calendar year before the calendar year in which the crop of the covered commodity is harvested through the month within which the direct payment would otherwise be made.

(iii) **CHANGE.**—The producers may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

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

(e) **PROHIBITION ON DE MINIMIS PAYMENTS.**—If the total direct payment to be paid to a producer on a farm for all covered commodities is less than \$25.00, the Secretary shall not tender the direct payment to the producer.

### **SEC. 1103. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS.**

(a) **PAYMENT REQUIRED.**—For each of the 2008 through 2012 crop years for each covered commodity, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres are established with respect to the covered commodity if the Secretary determines that the effective price for the covered commodity is less than the target price for the covered commodity.

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

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

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

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

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

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

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

### **SEC. 1104. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS.**

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

(b) **EFFECTIVE PRICE.**—

(1) **COVERED COMMODITIES OTHER THAN RICE.**—Except as provided in paragraph (2), for purposes of subsection (a), the effective price for a covered commodity is equal

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(1) The higher of the following:

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

(B) The national average loan rate for a marketing assistance loan for the covered commodity in effect for the applicable period under subtitle B, except that, for the purpose of calculating counter-cyclical payments under this section for rice and barley, the Secretary shall establish national average all rice and all barley loan rates.

(2) The payment rate in effect for the covered commodity under section 1102 for the purpose of making direct payments with respect to the covered commodity.

(c) **TARGET PRICE.**—For purposes of subsection (a), the target prices for covered commodities shall be as follows:

- (1) Wheat, \$4.15 per bushel.
- (2) Corn, \$2.63 per bushel.
- (3) Grain sorghum, \$2.57 per bushel.
- (4) Barley, \$2.73 per bushel.

to the sum of the following:

(A) The higher of the following:

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

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

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

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

(A) The higher of the following:

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

(ii) The national average loan rate for a marketing assistance loan for the type or class of rice in effect for the applicable period under part II.

(B) The payment rate in effect for the type or class of rice under section 1103 for the purpose of making direct payments with respect to the type or class of rice.

(c) **TARGET PRICE.**—

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

- (A) Wheat, \$4.20 per bushel.
- (B) Corn, \$2.63 per bushel.
- (C) Grain sorghum, \$2.63 per bushel.
- (D) Barley, \$2.63 per bushel.

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- (5) Oats, \$1.50 per bushel.
- (6) Upland cotton, \$0.70 per pound.
- (7) Rice, \$10.50 per hundredweight.
- (8) Soybeans, \$6.10 per bushel.
- (9) Other oilseeds, \$0.1150 per pound.
- (10) Peanuts, \$495.00 per ton.

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

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

(e) **PAYMENT AMOUNT.**—If counter-cyclical payments are required to be paid under this section for any of the 2008 through 2012 crop years of a covered commodity, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

- (1) The payment rate specified in subsection (d).
- (2) The payment acres of the covered commodity on the farm.
- (3) The payment yield for the covered commodity for the farm.

(f) **TIME FOR PAYMENTS.**—

- (1) **GENERAL RULE.**—If the Secretary determines under subsection (a) that counter-

- (E) Oats, \$1.83 per bushel.
- (F) Upland cotton, \$0.7225 per pound.
- (G) Long grain rice, \$10.50 per hundredweight.
- (H) Medium grain rice, \$10.50 per hundredweight.
- (I) Soybeans, \$6.00 per bushel.
- (J) Other oilseeds, \$12.74 per hundredweight.
- (K) Dry peas, \$8.33 per hundredweight.
- (L) Lentils, \$12.82 per hundredweight.
- (M) Small chickpeas, \$10.36 per hundredweight.
- (N) Large chickpeas, \$12.82 per hundredweight.

(2) **SEPARATE TARGET PRICE.**—The Secretary may not establish a target price for a covered commodity that is different from the target price specified in paragraph (1) for the covered commodity.

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

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

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

- (1) The payment rate specified in subsection (d).
- (2) The payment acres of the covered commodity on the farm.
- (3) The payment yield for the covered commodity for the farm.

(f) **TIME FOR PAYMENTS.**—

- (1) **GENERAL RULE.**—If the Secretary determines under subsection (a) that counter-

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cyclical payments are required to be made under this section for the crop of a covered commodity, the Secretary shall make the counter-cyclical payments for the crop as soon as practicable after the end of the 12-month marketing year for the covered commodity.

(2) **AVAILABILITY OF PARTIAL PAYMENTS.**—If, before the end of the 12-month marketing year for a covered commodity, the Secretary estimates that counter-cyclical payments will be required for the crop of the covered commodity, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for that crop of the covered commodity.

(3) **TIME FOR PARTIAL PAYMENTS FOR 2008 THROUGH 2010 CROP YEARS.**—If the Secretary is required to make partial payments available under paragraph (2) for a covered commodity for any of the 2008 through 2010 crop years—

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

(B) the final partial payment shall be made the later of the following:

(i) As soon as practicable after the end of the 12-month marketing year for the covered commodity.

(ii) October 1 of the fiscal year starting in the same calendar year as the end of the marketing year.

(4) **AMOUNT OF PARTIAL PAYMENTS.**—

(A) **FIRST PARTIAL PAYMENT.**—For each of the 2008 through 2010 crop years, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the

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cyclical payments are required to be made under this section for the crop of a covered commodity, the Secretary shall make the counter-cyclical payments for the crop beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for the covered commodity.

(2) **AVAILABILITY OF PARTIAL PAYMENTS.**—

(A) **IN GENERAL.**—If, before the end of the 12-month marketing year for a covered commodity, the Secretary estimates that counter-cyclical payments will be required for the crop of the covered commodity, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for that crop of the covered commodity.

(B) **ELECTION.**—

(i) **IN GENERAL.**—The Secretary shall allow producers on a farm to make an election to receive partial payments for a covered commodity under subparagraph (A) at any time but not later than 30 days prior to the end of the marketing year for that covered commodity.

(ii) **DATE OF ISSUANCE.**—The Secretary shall issue the partial payment after the date of an announcement by the Secretary but not later than 30 days prior to the end of the marketing year.

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

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

(B) the final partial payment shall be made beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for the covered commodity.

(4) **AMOUNT OF PARTIAL PAYMENTS.**—

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

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covered commodity for the crop year, as determined by the Secretary.

(B) **FINAL PAYMENT.**—The final payment for each of the 2008 through 2010 crop years shall be equal to the difference between—

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

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

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

(g) **PROHIBITION ON DE MINIMIS PAYMENTS.**—If the total counter-cyclical payment to be paid to a producer on a farm for all covered commodities is less than \$25.00, the Secretary shall not tender the counter-cyclical payment to the producer.

the covered commodity for the crop year, as determined by the Secretary.

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

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

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

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

### **SEC. 1104. AVAILABILITY OF REVENUE-BASED COUNTER-CYCLICAL PAYMENTS.**

(a) **AVAILABILITY AND ELECTION OF ALTERNATIVE APPROACH.**—

(1) **AVAILABILITY OF REVENUE-BASED COUNTER-CYCLICAL PAYMENTS.**—As an alternative to receiving counter-cyclical payments under section 1103 with respect to each covered commodity on a farm, the Secretary shall give the producers on the farm an opportunity to elect to instead receive revenue-based counter-cyclical payments under this section for the 2008 through 2012 crop years.

(2) **SINGLE ELECTION; TIME FOR ELECTION.**—As soon as practicable after the date of enactment of this Act, the Secretary shall provide notice to producers regarding their opportunity to make the election described in paragraph (1). The notice shall include the following:

(A) Notice that the opportunity of the producers on a farm to make the election is being provided only once.

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

(3) **ELECTION DEADLINE.**—Within the time period and in the manner prescribed



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pursuant to paragraph (2), the producers on a farm shall submit to the Secretary notice of the election made under paragraph (1).

(4) **EFFECT OF FAILURE TO MAKE ELECTION.**—If the producers on a farm fail to make the election under paragraph (1) or fail to timely notify the Secretary of the election made, as required by paragraph (3), the producers shall be deemed to have made the election to receive counter-cyclical payments under section 1103 for all covered commodities on the farm.

(b) **PAYMENT REQUIRED.**—In the case of producers on a farm who make the election under subsection (a) to receive revenue-based counter-cyclical payments, the Secretary shall make revenue-based counter-cyclical payments to such producers with respect to a covered commodity on the farm, if the Secretary determines that the national actual revenue per acre for the covered commodity is less than the national target revenue per acre for the covered commodity, as determined pursuant to this section.

(c) **NATIONAL ACTUAL REVENUE PER ACRE.**—For each covered commodity for each of the 2008 through 2012 crop years, the Secretary shall establish a national actual revenue per acre by multiplying the national average yield for the given year by the higher of—

(1) the national average market price received by producers of the covered commodity during the 12-month marketing year established by the Secretary; or

(2) the loan rate for the covered commodity under section 1202, except that, for the purpose of calculating national actual revenue per acre for rice and barley, the Secretary shall establish national average all rice and all barley loan rates.

(d) **NATIONAL TARGET REVENUE PER ACRE.**—The national target revenue per acre shall be, on a per acre basis, as follows:

(1) Wheat, \$149.92.

(2) Corn, \$344.12.

(3) Grain Sorghum, \$131.28.

(4) Barley, \$153.30.

(5) Oats, \$92.10

(6) Upland cotton, \$496.93.

(7) Rice, \$548.06.

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(8) Soybeans, \$231.87.

(9) Other oilseeds, \$129.18.

(10) Peanuts, \$683.83.

(e) **NATIONAL PAYMENT YIELD.**—The national payment yield shall be as follows:

(1) Wheat, 36.1 bushels per acre.

(2) Corn, 114.4 bushels per acre.

(3) Grain Sorghum, 58.2 bushels per acre.

(4) Barley, 48.6 bushels per acre.

(5) Oats, 49.8 bushels per acre.

(6) Upland cotton, 634 pounds per acre.

(7) Rice, 51.28 hundredweight per acre.

(8) Soybeans, 34.1 bushels per acre.

(9) Other oilseeds, 1167.6 pounds per acre.

(10) Peanuts, 1.496 tons per acre.

(f) **NATIONAL PAYMENT RATE.**—The national payment rate used to make revenue-based counter-cyclical payments for a crop year shall be the result of—

(1) the difference between the national target revenue per acre for the covered commodity and the national actual revenue per acre for the covered commodity; divided by

(2) the national payment yield for the covered commodity.

(g) **PAYMENT AMOUNT.**—If revenue-based counter-cyclical payments are required to be paid for any of the 2008 through 2012 crop years of a covered commodity, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year for the covered commodity shall be equal to the product of—

(1) the national payment rate for the covered commodity;

(2) the payment acres of the covered commodity on the farm; and

(3) the payment yield for counter-cyclical payments for the covered commodity.

**(h) TIME FOR PAYMENTS.—**

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

(2) **AVAILABILITY OF PARTIAL PAYMENTS.**—If, before the end of the 12-month marketing year for a covered commodity, the Secretary estimates that revenue-based counter-cyclical payments will be required for the crop of the covered commodity, the Secretary shall give producers on a farm the option to receive partial payments of the revenue-based counter-cyclical payments projected to be made for that crop of the covered commodity.

(3) **TIME FOR PARTIAL PAYMENTS FOR 2008 THROUGH 2010 CROP YEARS.**—If the Secretary is required to make partial payments available under paragraph (2) for a covered commodity for any of the 2008 through 2010 crop years—

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

(B) the final partial payment shall be made the later of the following:

(i) As soon as practicable after the end of the 12-month marketing year for the covered commodity.

(ii) October 1 of the fiscal year starting in the same calendar year as the end of the marketing year.

**(4) AMOUNT OF PARTIAL PAYMENTS.—**

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

(B) **FINAL PAYMENT.**—The final payment for each of the 2008 through 2010 crop years shall be equal to the difference between—

(i) the actual revenue-based counter-cyclical payments to be made to the producers for the covered commodity for that crop year; and

(ii) the amount of the partial payment made to the producers on a farm

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under subparagraph (A) for that crop year.

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

(i) **PROHIBITION ON DE MINIMIS PAYMENTS.**—If the total revenue-based counter-cyclical payment to be paid to a producer on a farm for all covered commodities is less than \$25.00, the Secretary shall not tender the revenue-based counter-cyclical payment to the producer.

## **SEC. 1105. PRODUCER AGREEMENT REQUIRED AS CONDITION OF PROVISION OF DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.**

### **(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—**

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

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

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

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

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

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary.

## **SEC. 1105. PRODUCER AGREEMENT REQUIRED AS CONDITION OF PROVISION OF DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.**

### **(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—**

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

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

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

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

(D) to use the land on the farm, in a quantity equal to the attributable base acres for the farm and any base acres for peanuts for the farm under part III, for an agricultural or conserving use, and not for a nonagricultural commercial, industrial, or residential use (including land subdivided and developed into residential units or other nonfarming uses, or that is otherwise no longer intended to be used in conjunction with a farming operation), as determined by the Secretary; and

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

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

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

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

**(1) TERMINATION.—**

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

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

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

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

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

(e) **SHARING OF PAYMENTS.**—The Secretary shall provide for the sharing of direct

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of any portion of the land referred to in subparagraph (D).

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

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

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

**(1) TERMINATION.—**

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

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

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

**(c) ACREAGE REPORTS.—**

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

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

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

(e) **SHARING OF PAYMENTS.**—The Secretary shall provide for the sharing of direct

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payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

## SEC. 1106. PLANTING FLEXIBILITY.

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

## SEC. 1106. PLANTING FLEXIBILITY.

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

### (b) **LIMITATIONS REGARDING CERTAIN COMMODITIES.**—

### (b) **LIMITATIONS REGARDING CERTAIN COMMODITIES.**—

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

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

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

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

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

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

(A) Fruits.

(A) Fruits.

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

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

(C) Wild rice.

(C) Wild rice.

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

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

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

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

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

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

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

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

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

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

**(d) PLANTING TRANSFERABILITY PILOT PROJECT.—**

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

(2) **CONTRACT AND MANAGEMENT REQUIREMENTS.**—To be eligible for selection to participate in the pilot project, a producer must—

(A) have a contract to grow tomatoes for processing; and

(B) agree to produce the tomatoes as part of a program of crop rotation on the farm to achieve agronomic and pest and disease management benefits.

(3) **TEMPORARY REDUCTION IN BASE ACRES.**—The base acres on a farm for a crop year shall be reduced by an acre for each acre planted to tomatoes under the pilot program.

(4) **DURATION OF REDUCTIONS.**—The reduction in the base acres of a farm for a crop year under paragraph (3) shall expire at the end of the crop year, unless the producers on the farm elect to continue to participate in the pilot project for the subsequent crop year.

(5) **RECALCULATION OF BASE ACRES.**—If the Secretary recalculates base acres for a farm while the farm is included in the pilot project, the planting and production of tomatoes under the pilot project shall be considered to be the same as the planting, prevented planting, or production of a covered commodity. Nothing in this paragraph provides authority for the Secretary to recalculate base acres for a farm.

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

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

**(d) PLANTING TRANSFERABILITY PILOT PROJECT.—**

(1) **PILOT PROJECT AUTHORIZED.**—In addition to the exceptions provided in subsection (c), the Secretary shall carry out a pilot project in the State of Indiana under which paragraphs (1) and (2) of subsection (b) shall not limit the planting of tomatoes grown for processing on up to 10,000 base acres during each of the 2008 through 2009 crop years.

(2) **CONTRACT AND MANAGEMENT REQUIREMENTS.**—To be eligible for selection to participate in the pilot project, the producers on a farm shall—

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

(B) agree to produce the tomatoes as part of a program of crop rotation on the farm to achieve agronomic and pest and disease management benefits.

(3) **TEMPORARY REDUCTION IN BASE ACRES.**—The base acres on a farm participating in the pilot program for a crop year shall be reduced by an acre for each acre planted to tomatoes under the pilot program.

**(4) RECALCULATION OF BASE ACRES.—**

(A) **IN GENERAL.**—If the Secretary recalculates base acres for a farm while the farm is included in the pilot project, the planting and production of tomatoes on base acres for which a temporary reduction was made under this section shall be considered to be the same as the planting and production of a covered commodity.

(B) **PROHIBITION.**—Nothing in this paragraph provides authority for the Secretary to recalculate base acres for a farm.

	<p><b>SEC. 1107. SPECIAL RULE FOR LONG GRAIN AND MEDIUM GRAIN RICE.</b></p> <p>(a) <b>CALCULATION METHOD.</b>—Subject to subsections (b) and (c), for the purposes of determining the amount of the counter-cyclical payments to be paid to the producers on a farm for long grain rice and medium grain rice under section 1104, the base acres of rice on the farm shall be apportioned using the 4-year average of the percentages of acreage planted in the applicable State to long grain rice and medium grain rice during the 2003 through 2006 crop years, as determined by the Secretary.</p> <p>(b) <b>PRODUCER ELECTION.</b>—As an alternative to the calculation method described in subsection (a), the Secretary shall provide producers on a farm the opportunity to elect to apportion rice base acres on the farm using the 4-year average of—</p> <ol style="list-style-type: none"> <li>(1) the percentages of acreage planted on the farm to long grain rice and medium grain rice during the 2003 through 2006 crop years;</li> <li>(2) the percentages of any acreage on the farm that the producers were prevented from planting to long grain rice and medium grain rice during the 2003 through 2006 crop years because of drought, flood, other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary; and</li> <li>(3) in the case of a crop year for which a producer on a farm elected not to plant to long grain and medium grain rice during the 2003 through 2006 crop years, the percentages of acreage planted in the applicable State to long grain rice and medium grain rice, as determined by the Secretary.</li> </ol> <p>(c) <b>LIMITATION.</b>—In carrying out this section, the Secretary shall use the same total base acres, payment acres, and payment yields established with respect to rice under sections 1101 and 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911, 7912), as in effect on the day before the date of enactment of this Act, subject to any adjustment under section 1101 of this Act.</p>
<p><b>SEC. 1107. PERIOD OF EFFECTIVENESS.</b></p> <p>This subtitle shall be effective beginning with the 2008 crop year of each covered commodity through the 2012 crop year.</p>	<p><b>SEC. 1108. PERIOD OF EFFECTIVENESS.</b></p> <p>This part shall be effective beginning with the 2008 crop year of each covered commodity through the 2012 crop year.</p>



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<b>Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments</b>	<b>PART II—MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS</b>
<p><b>SEC. 1201. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS FOR LOAN COMMODITIES.</b></p> <p>(a) <b>NONRECOURSE LOANS AVAILABLE.</b>—</p> <p>(1) <b>AVAILABILITY.</b>—For each of the 2008 through 2012 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm.</p> <p>(2) <b>TERMS AND CONDITIONS.</b>—The marketing assistance loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 1202 for the loan commodity.</p> <p>(b) <b>ELIGIBLE PRODUCTION.</b>—The producers on a farm shall be eligible for a marketing assistance loan under subsection (a) for any quantity of a loan commodity produced on the farm.</p> <p>(c) <b>TREATMENT OF CERTAIN COMMINGLED COMMODITIES.</b>—In carrying out this subtitle, the Secretary shall make loans to producers on a farm that would be eligible to obtain a marketing assistance loan, but for the fact the loan commodity owned by the producers on the farm commingled with loan commodities of other producers in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the producers obtaining the loan agree to immediately redeem the loan collateral in accordance with section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286).</p> <p>(d) <b>COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.</b>—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.</p> <p>(e) <b>PEANUT-RELATED LOAN PROVISIONS.</b>—</p> <p>(1) <b>OPTIONS FOR OBTAINING LOANS.</b>—A marketing assistance loan for peanuts under this section and loan deficiency payments for peanuts under section 1205 may be obtained at option of the producers on a farm through—</p>	<p><b>SEC. 1201. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS FOR LOAN COMMODITIES.</b></p> <p>(a) <b>NONRECOURSE LOANS AVAILABLE.</b>—</p> <p>(1) <b>AVAILABILITY.</b>— Except as provided in section 1401, for each of the 2008 through 2012 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm.</p> <p>(2) <b>TERMS AND CONDITIONS.</b>—The marketing assistance loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 1202 for the loan commodity.</p> <p>(b) <b>ELIGIBLE PRODUCTION.</b>—The producers on a farm shall be eligible for a marketing assistance loan under subsection (a) for any quantity of a loan commodity produced on the farm.</p> <p>(c) <b>TREATMENT OF CERTAIN COMMINGLED COMMODITIES.</b>—In carrying out this part, the Secretary shall make loans to producers on a farm that would be eligible to obtain a marketing assistance loan, but for the fact the loan commodity owned by the producers on the farm is commingled with loan commodities of other producers in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the producers obtaining the loan agree to immediately redeem the loan collateral in accordance with section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286).</p> <p>(d) <b>COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.</b>—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.</p> <p><b>SEC. 1307(a)</b></p> <p>(5) <b>OPTIONS FOR OBTAINING LOAN.</b>—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained at the option of the producers on a farm through—</p>

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

(B) the Farm Service Agency.

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

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

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

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

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

(B) the Farm Service Agency.

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

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

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

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

### **SEC. 1202. LOAN RATES FOR NONRECOURSE MARKETING ASSISTANCE LOANS.**

(a) **LOAN RATES.**—The loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

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

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

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

(4) In the case of malt barley, \$2.50 per bushel.

(5) In the case of feed barley, \$1.90 per bushel.

(6) In the case of oats, \$1.46 per bushel.

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

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

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

(10) In the case of medium grain rice and short grain rice, \$6.50 per hundredweight.

### **SEC. 1202. LOAN RATES FOR NONRECOURSE MARKETING ASSISTANCE LOANS.**

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

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

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

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

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

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

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

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

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

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

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

(12) In the case of other oilseeds, \$0.1070 per pound for each of the following kinds of oilseeds:

(A) Sunflower seed.

(B) Rapeseed.

(C) Canola.

(D) Safflower.

(E) Flaxseed.

(F) Mustard seed.

(G) Crambe.

(H) Sesame seed.

(I) Other oilseeds designated by the Secretary.

(13) In the case of dry peas, \$5.40 per hundredweight.

(14) In the case of lentils, \$11.28 per hundredweight.

(15) In the case of small chickpeas, \$8.54 per hundredweight.

(16) In the case of peanuts, \$355.00 per ton.

(17) In the case of graded wool, \$1.10 per pound.

(18) In the case of nongraded wool, \$0.40 per pound.

(19) In the case of honey, \$0.60 per pound.

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

(b) **SINGLE COUNTY LOAN RATE FOR OTHER OILSEEDS.**—The Secretary shall establish a single loan rate in each county for each kind of other oilseeds described in subsection (a)(12).

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

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

(12) In the case of dry peas, \$5.40 per hundredweight.

(13) In the case of lentils, \$11.28 per hundredweight.

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

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

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

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

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

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

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

(c) **GRADING BASIS FOR MARKETING LOANS FOR PULSE CROPS**—The loan rate for pulse

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**(c) SPECIAL RULES FOR CORN AND GRAIN SORGHUM.—**

**(1) SINGLE COUNTY AND NATIONAL AVERAGE LOAN RATE.—**The Secretary shall—

- (A) establish a single county loan rate for corn and grain sorghum in each county;
- (B) establish a single national average loan rate for corn and grain sorghum; and
- (C) determine each county loan rate and the national average loan rate for corn and grain sorghum and any and all other program loan rates applicable to corn and grain sorghum from a data set that includes prices for both commodities.

**(2) ADMINISTRATION.—**With respect to corn and grain sorghum, the Secretary—

- (A) shall administer the applicable loan, marketing loan, counter-cyclical payment, and related programs from a single loan rate for corn and grain sorghum that is identical in each individual county;
- (B) shall provide that any adjustment in the loan rate for location shall be determined and applied on the basis of the combined data set such that any transportation adjustment shall be the same for corn and grain sorghum in each individual county; and
- (C) may provide for adjustments for grade, type, and quality as appropriate for the corn or grain sorghum involved in each specific transaction.

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

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

crops—

- (1) shall be based on a grade not less than grade number 2 or other grade factors, including the fair and average quality of the 1 or more crops in any year; and
- (2) may be adjusted by the Secretary to reflect the normal market discounts for grades less than number 2 quality.

**(d) CORN AND GRAIN SORGHUM.—**The Secretary shall—

- (1) establish a single county loan rate for corn and grain sorghum in each county;
- (2) establish a single national average loan rate for corn and grain sorghum; and
- (3) determine each county loan rate and the national average loan rate for corn and grain sorghum, and any and all other program loan rates applicable to corn and grain sorghum, from a data set that includes prices for both corn and grain sorghum.

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**(e) CORN AND GRAIN SORGHUM.—**In the case of corn and grain sorghum, the Secretary—

- (1) shall administer the applicable loan, marketing loan, and related programs using a single loan rate for corn and grain sorghum that is identical in each individual county;
- (2) shall provide that any adjustment in the corn and grain sorghum loan rate for location shall be determined and applied on the basis of the combined corn and grain sorghum data set in a manner that any transportation adjustment shall be the same for corn and grain sorghum in each individual county; and
- (3) may provide for adjustments for grade, type, and quality, as appropriate, for the corn or grain sorghum involved in each specific transaction.

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

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

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after the month in which the loan is made.

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

## SEC. 1204. REPAYMENT OF LOANS.

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

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

(2) A rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

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

(C) minimize the cost incurred by the Federal Government in storing the commodity;

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally; and

(E) minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries, if applicable.

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

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

(2) the prevailing world market price for the commodity (adjusted to United States

after the month in which the loan is made.

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

## SEC. 1204. REPAYMENT OF LOANS.

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

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

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

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

(C) minimize the cost incurred by the Federal Government in storing the commodity;

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally; and

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

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

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

(2) the prevailing world market price for the commodity (adjusted to United States

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quality and location), as determined by the Secretary.

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

(d) **PREVAILING WORLD MARKET PRICE.**—For purposes of this section and section 1207, the Secretary shall prescribe by regulation—

(1) a formula to determine the prevailing world market price for upland cotton, which shall be based on the Far East price of upland cotton;

(2) a formula to determine the prevailing world market price for—

(A) long grain rice; and

(B) medium and short grain rice;

(3) a mechanism by which the Secretary will announce periodically the prevailing world market price for upland cotton, long grain rice, and medium and short grain rice; and

(4) a mechanism by which the Secretary will make the adjustments, required by subsection (e), to the prevailing world market price for upland cotton, long grain rice, and medium and short grain rice.

(e) **ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON AND RICE.**—

(1) **RICE.**—The prevailing world market price for long grain, medium grain, and short grain rice determined in subsection (d) shall be adjusted to United States quality and location.

(2) **COTTON.**—The prevailing world market price for upland cotton, determined in subsection (d) shall be—

(A) adjusted to United States quality and location, with such quality adjustment to include—

(i) any existing United States loan schedule premiums for Comparable United States Quality; and

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quality and location), as determined by the Secretary.

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

(d) **PREVAILING WORLD MARKET PRICE.**—For purposes of this section and section 1207, the Secretary shall prescribe by regulation—

(1) a formula to determine—

(A) the prevailing world market price for upland cotton (adjusted to United States quality and location); and

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

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

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(ii) a reduction equal to any United States Premium Factor to upland cotton of a quality higher than Middling (M) 1 $\frac{3}{32}$ -inch; and

(B) adjusted to take into account average costs to market the commodity, including average transportation costs, as determined by the Secretary.

### (f) ADDITIONAL ADJUSTMENT AUTHORITY REGARDING PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—

(1) **IN GENERAL.**—During the period beginning on the date of the enactment of this Act through July 31, 2013, the Secretary may further adjust the prevailing world market price for upland cotton (adjusted under subsection (d)) if the Secretary determines such adjustment necessary—

(A) to minimize potential loan forfeitures;

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

(C) to allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally;

(D) to ensure that United States cotton is competitive in world markets; and

(E) to ensure an appropriate transition between current-crop and forward-crop price quotations, except that the Secretary may use forward-crop price quotations prior to July 31 of the current marketing year only if there are less than three current-crop price quotations and only if such forward-crop price quotation is the lowest such quotation available.

(2) **GUIDELINES FOR ADDITIONAL ADJUSTMENT.**—In further adjusting the prevailing world market price for upland cotton under this subsection, the Secretary shall establish a mechanism for determining and announcing such adjustments in order to avoid undue disruption in the United States market.

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

(1) the loan rate established for the commodity under section 1202, plus interest

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

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

(A) to minimize potential loan forfeitures;

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

(C) to allow upland cotton produced in the United States to be marketed freely and competitively, both domestically and internationally;

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

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

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

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

(2) **GUIDELINES FOR ADDITIONAL ADJUSTMENTS.**—In making adjustments under this subsection, the Secretary shall establish a mechanism for determining and announcing the adjustments in order to avoid undue disruption in the United States market.

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

(1) the loan rate established for the commodity under section 1202, plus interest

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(determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) the repayment rate established for oil sunflower seed.

(h) **QUALITY GRADES FOR DRY PEAS, LENTILS, AND SMALL CHICKPEAS.**—The loan repayment rate for dry peas, lentils, and small chickpeas shall be based on the quality grades for the applicable commodity.

(determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) the repayment rate established for oil sunflower seed.

(g) **QUALITY GRADES FOR PULSE CROPS.**—The loan repayment rate for pulse crops shall be based on the quality grades for the applicable commodity specified in section 1202(c).

*Paragraph (h), see Sec. 1510*

## **SEC. 1205. LOAN DEFICIENCY PAYMENTS.**

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

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

### **(2) UNSHORN PELTS, HAY, AND SILAGE.—**

(A) **MARKETING ASSISTANCE LOANS.**—Subject to subparagraph (B), nongraded wool in the form of unshorn pelts and hay and silage derived from a loan commodity are not eligible for a marketing assistance loan under section 1201.

(B) **LOAN DEFICIENCY PAYMENT.**—Effective for the 2008 through 2012 crop years, the Secretary may make loan deficiency payments available under this section to producers on a farm that produce unshorn pelts or hay and silage derived from a loan commodity.

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

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

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

### **(c) PAYMENT RATE.—**

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

## **SEC. 1205. LOAN DEFICIENCY PAYMENTS.**

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

(1) **IN GENERAL.**—Except as provided in subsection (d) and section 1401, the Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan under section 1201 with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for loan deficiency payments under this section.

### **(2) UNSHORN PELTS, HAY, AND SILAGE.—**

(A) **MARKETING ASSISTANCE LOANS.**—Subject to subparagraph (B), nongraded wool in the form of unshorn pelts and hay and silage derived from a loan commodity are not eligible for a marketing assistance loan under section 1201.

(B) **LOAN DEFICIENCY PAYMENT.**—Effective for the 2008 through 2012 crop years, the Secretary may make loan deficiency payments available under this section to producers on a farm that produce unshorn pelts or hay and silage derived from a loan commodity.

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

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

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

### **(c) PAYMENT RATE.—**

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



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

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

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

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

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

(3) **HAY AND SILAGE.**—In the case of hay or silage derived from a loan commodity, the payment rate shall be the amount by which—

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

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

(d) **EXCEPTION FOR EXTRA LONG STAPLE COTTON.**—This section shall not apply with respect to extra long staple cotton.

(e) **EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.**—The Secretary shall determine the amount of the loan deficiency payment to be made under this section to the producers on a farm with respect to a quantity of a loan commodity or commodity referred to in subsection (a)(2) using the payment rate in effect under subsection (c) as of the date the producers request the payment.

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

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

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

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

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

(3) **HAY AND SILAGE.**—In the case of hay or silage derived from a loan commodity, the payment rate shall be the amount by which—

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

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

(d) **EXCEPTION FOR EXTRA LONG STAPLE COTTON.**—This section shall not apply with respect to extra long staple cotton.

(e) **EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.**—

(1) **LOSS OF BENEFICIAL INTEREST.**—The Secretary shall determine the amount of the loan deficiency payment to be made under this section to the producers on a farm with respect to a quantity of a loan commodity or commodity referred to in subsection (a)(2) using the payment rate in effect under subsection (c) as soon as practicable after the date on which the producers on the farm lose beneficial interest.

(2) **ON-FARM CONSUMPTION.**—For the quantity of a loan commodity or commodity referred to in subsection (a)(2) consumed on a farm, the Secretary shall provide procedures to determine a date on which the producers on the farm lose beneficial interest.

(3) **APPLICABILITY.**—This subsection does not apply for the 2009 through 2012 crop years.

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## SEC. 1206. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

### (a) ELIGIBLE PRODUCERS.—

(1) **IN GENERAL.**—Effective for the 2008 through 2012 crop years, in the case of a producer that would be eligible for a loan deficiency payment under section 1205 for wheat, barley, or oats, but that elects to use acreage planted to the wheat, barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of the wheat, barley, or oats on that acreage.

(2) **GRAZING OF TRITICALE ACREAGE.**—Effective for the 2008 through 2012 crop years, with respect to a producer on a farm that uses acreage planted to triticale for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of triticale on that acreage.

### (b) PAYMENT AMOUNT.—

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

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

(B) the payment quantity determined by multiplying—

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

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to that loan commodity on the farm or, in the case of a farm without a payment yield for that loan commodity, an appropriate yield established by the Secretary in a manner consistent with section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912).

(2) **GRAZING OF TRITICALE ACREAGE.**—The amount of a payment made

## SEC. 1206. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

### (a) ELIGIBLE PRODUCERS.—

(1) **IN GENERAL.**—Except as provided in section 1401, effective for the 2008 through 2012 crop years, in the case of a producer that would be eligible for a loan deficiency payment under section 1205 for wheat, barley, or oats, but that elects to use acreage planted to the wheat, barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of the wheat, barley, or oats on that acreage.

(2) **GRAZING OF TRITICALE ACREAGE.**—Effective for the 2008 through 2012 crop years, with respect to a producer on a farm that uses acreage planted to triticale for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of triticale on that acreage.

### (b) PAYMENT AMOUNT.—

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

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

(B) the payment quantity determined by multiplying—

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

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

(2) **GRAZING OF TRITICALE ACREAGE.**—The amount of a payment made under this

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under this section to a producer on a farm described in subsection (a)(2) shall be equal to the amount determined by multiplying—

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

(B) the payment quantity determined by multiplying—

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

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to wheat on the farm or, in the case of a farm without a payment yield for wheat, an appropriate yield established by the Secretary in a manner consistent with section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912).

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

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

(2) **AVAILABILITY.**—

(A) **IN GENERAL.**—The Secretary shall establish an availability period for the payments authorized by this section.

(B) **CERTAIN COMMODITIES.**—In the case of wheat, barley, and oats, the availability period shall be consistent with the availability period for the commodity established by the Secretary for marketing assistance loans authorized by this subtitle.

(d) **PROHIBITION ON CROP INSURANCE INDEMNITY OR NONINSURED CROP ASSISTANCE.**—A 2008 through 2012 crop of wheat, barley, oats, or triticale planted on acreage that a producer elects, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop shall not be eligible for an indemnity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

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section to a producer on a farm described in subsection (a)(2) shall be equal to the amount determined by multiplying—

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

(B) the payment quantity determined by multiplying—

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

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

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

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

(2) **AVAILABILITY.**—

(A) **IN GENERAL.**—The Secretary shall establish an availability period for the payments authorized by this section.

(B) **CERTAIN COMMODITIES.**—In the case of wheat, barley, and oats, the availability period shall be consistent with the availability period for the commodity established by the Secretary for marketing assistance loans authorized by this part.

(d) **PROHIBITION ON CROP INSURANCE INDEMNITY OR NONINSURED CROP ASSISTANCE.**—A 2008 through 2012 crop of wheat, barley, oats, or triticale planted on acreage that a producer elects, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop shall not be eligible for an indemnity under a policy or plan of insurance authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

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## SEC. 1207. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.

### (a) SPECIAL IMPORT QUOTA.—

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

### (2) ESTABLISHMENT.—

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

(B) **PROGRAM REQUIREMENTS.**—Whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1<sup>3</sup>/<sub>32</sub>-inch cotton, delivered C/F Far East, exceeds the Far East price there shall immediately be in effect a special import quota.

(3) **QUANTITY.**—The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

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

(5) **OVERLAP.**—A special quota period may be established that overlaps any existing quota period if required by paragraph (2), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (b).

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

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

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

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

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## SEC. 1207. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.

### (a) SPECIAL IMPORT QUOTA.—

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

### (2) ESTABLISHMENT.—

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

(B) **PROGRAM REQUIREMENTS.**—Whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1<sup>3</sup>/<sub>32</sub>-inch cotton, delivered to a definable and significant international market, as determined by the Secretary, exceeds the prevailing world market price, there shall immediately be in effect a special import quota.

(3) **QUANTITY.**—The quota shall be equal to 1 week's consumption of cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

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

(5) **OVERLAP.**—A special quota period may be established that overlaps any existing quota period if required by paragraph (2), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (b).

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

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

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

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

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

(7) **LIMITATION.**—The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the equivalent of 10 week’s consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

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

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

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

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

(ii) production of the current crop; and

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

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

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

(ii) the larger of—

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

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

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

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

(7) **LIMITATION.**—The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the equivalent of 10 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

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

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

(A) **SUPPLY.**—The term ‘supply’ means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

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

(ii) production of the current crop; and

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

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

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

(ii) the larger of—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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(1) **ISSUANCE OF MARKETING CERTIFICATES OR CASH PAYMENTS.**—During the period beginning on the date of the enactment of this Act through July 31, 2013, the Secretary shall issue, on a monthly basis, marketing certificates or cash payments, at the option of the recipient, to domestic users of upland cotton for all documented use of upland cotton during the previous monthly period regardless of the origin of the upland cotton.

(2) **VALUE OF CERTIFICATES OR PAYMENTS.**—The value of the marketing certificates or cash payments shall be 4 cents per pound.

(3) **ALLOWABLE PURPOSES.**—Economic adjustment assistance under this subsection shall be made available only to domestic users of upland cotton that certify that such funds shall be used only for acquisition, construction, installation, modernization, development, conversion, or expansion of land, plant, buildings, equipment, facilities, or machinery.

(4) **REVIEW OR AUDIT.**—The Secretary may conduct such review or audit of the records of a domestic user under this subsection as determined necessary to carry out the provisions of this subsection.

(5) **IMPROPER USE OF ASSISTANCE.**—If the Secretary determines, after a review or audit of the records of the domestic user, that economic adjustment assistance under this subsection was not used for the purposes specified in paragraph (3), the domestic user shall be liable to repay such assistance to the Secretary, plus interest, as determined by the Secretary, and shall be ineligible to participate in the program established by this subsection for a period of 12 months following the determination of the Secretary.

### SEC. 1208. SPECIAL COMPETITIVE PROVISIONS FOR EXTRA LONG STAPLE COTTON.

(a) **COMPETITIVENESS PROGRAM.**—Notwithstanding any other provision of law,

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(1) **IN GENERAL.**—Subject to paragraph (2), the Secretary shall, on a monthly basis, provide economic adjustment assistance to domestic users of upland cotton in the form of payments for all documented use of that upland cotton during the previous monthly period regardless of the origin of the upland cotton.

(2) **VALUE OF ASSISTANCE.**—

(A) **BEGINNING PERIOD.**—During the period beginning on August 1, 2008, and ending on June 30, 2013, the value of the assistance provided under paragraph (1) shall be 4 cents per pound.

(B) **SUBSEQUENT PERIOD.**—Effective beginning on July 1, 2013, the value of the assistance provided under paragraph (1) shall be 0 cents per pound.

(3) **ALLOWABLE PURPOSES.**—Economic adjustment assistance under this subsection shall be made available only to domestic users of upland cotton that certify that the assistance shall be used only to acquire, construct, install, modernize, develop, convert, or expand land, plant, buildings, equipment, facilities, or machinery.

(4) **REVIEW OR AUDIT.**—The Secretary may conduct such review or audit of the records of a domestic user under this subsection as the Secretary determines necessary to carry out this subsection.

(5) **IMPROPER USE OF ASSISTANCE.**—If the Secretary determines, after a review or audit of the records of the domestic user, that economic adjustment assistance under this subsection was not used for the purposes specified in paragraph (3), the domestic user shall be—

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

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

### SEC. 1208. SPECIAL COMPETITIVE PROVISIONS FOR EXTRA LONG STAPLE COTTON.

(a) **COMPETITIVENESS PROGRAM.**—Notwithstanding any other provision of law,

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during the period beginning on the date of the enactment of this Act through July 31, 2013, the Secretary shall carry out a program—

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

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

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

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

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

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

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

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

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

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

during the period beginning on the date of the enactment of this Act through July 31, 2013, the Secretary shall carry out a program—

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

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

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

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

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

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

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

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

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



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# SENATE AMENDMENT

(a) **HIGH MOISTURE FEED GRAINS.**—

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

(2) **RECOURSE LOANS AVAILABLE.**—For each of the 2008 through 2012 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm that—

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

(B) present—

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

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

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

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

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

(A) the acreage of the corn or grain sorghum in a high moisture state

(a) **HIGH MOISTURE FEED GRAINS.**—

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

(2) **RECOURSE LOANS AVAILABLE.**—For each of the 2008 through 2012 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm that—

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

(B) present—

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

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

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

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

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

(A) the acreage of the corn or grain sorghum in a high moisture state

## HOUSE BILL (2419)

## SENATE AMENDMENT

<p>harvested on the producer's farm; by</p> <p>(B) the lower of the farm program payment yield used to make counter-cyclical payments under subtitle A or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.</p> <p>(b) <b>RECOURSE LOANS AVAILABLE FOR SEED COTTON.</b>—For each of the 2008 through 2012 crops of upland cotton and extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.</p> <p>(c) <b>REPAYMENT RATES.</b>—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).</p>	<p>harvested on the producer's farm; by</p> <p>(B) the lower of the farm program payment yield used to make counter-cyclical payments under part I or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.</p> <p>(b) <b>RECOURSE LOANS AVAILABLE FOR SEED COTTON.</b>—For each of the 2008 through 2012 crops of upland cotton and extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.</p> <p>(c) <b>REPAYMENT RATES.</b>—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).</p>
<p><b>SEC. 1210. DEADLINE FOR REPAYMENT OF MARKETING ASSISTANCE LOAN FOR PEANUTS.</b></p> <p>(a) <b>JUNE 30 REDEMPTION DEADLINE.</b>—Notwithstanding any other provision of law, a marketing assistance loan for peanuts may not be redeemed after June 30 of the year subsequent to the year in which the peanuts were harvested.</p> <p>(b) <b>EFFECT OF FAILURE TO REDEEM.</b>—A marketing assistance loan for peanuts that is not redeemed before the deadline imposed by subsection (a) shall be deemed to be forfeited to the Commodity Credit Corporation.</p>	
<p><b>SEC. 1211. COMMODITY QUALITY INCENTIVE PAYMENTS FOR HEALTHY OILSEEDS.</b></p> <p>(a) <b>INCENTIVE PAYMENTS REQUIRED.</b>—Subject to the availability of funds for this purpose, the Secretary shall provide commodity quality incentive payments during the 2009 through 2013 crop years for the production of oilseeds with specialized traits that enhance human health, as determined by the Secretary.</p> <p>(b) <b>COVERED OILSEEDS.</b>—The Secretary shall make payments under this section only for the production of an oilseed that has, as determined by the Secretary—</p> <p>(1) been demonstrated to reduce or eliminate the need to partially hydrogenate the oil derived from the oilseed for use in human consumption; and</p> <p>(2) 1 or more traits for which compelling impediments to commercialization</p>	<p><b>SEC. 1705. AVAILABILITY OF QUALITY INCENTIVE PAYMENTS FOR CERTAIN PRODUCERS.</b></p> <p>(a) <b>INCENTIVE PAYMENTS REQUIRED.</b>—Subject to subsection (b), the Secretary shall use funds made available under subsection (g) to provide quality incentive payments for the production of oilseeds with specialized traits that enhance human health, as determined by the Secretary.</p> <p>(b) <b>COVERED OILSEEDS.</b>—The Secretary shall make payments under this section only for the production of an oilseed variety that has, as determined by the Secretary—</p> <p>(1) been demonstrated to improve the health profile of the oilseed for use in human consumption by—</p> <p>(A) reducing or eliminating the need to partially hydrogenate the oil</p>

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have been identified.

### (c) REQUEST FOR PROPOSALS.—

(1) **ISSUANCE.**—If funds are available to carry out this section for a crop year, the Secretary shall issue a request for proposals for payments under this section.

(2) **MULTIYEAR PROPOSALS.**—An entity may submit a multiyear proposal for payments under this section.

(3) **CONTENT OF PROPOSALS.**—A proposal for payments under this section shall include a description of—

(A) each trait of the oilseed described in subsection (b)(2) and the value of the trait as a matter of public policy;

(B) the projected market size and value of the trait;

(C) the projected impact of the proposal on—

(i) the future price of loan commodities; and

(ii) if appropriate, on Federal Government farm program outlays to support loan commodities;

(D) a range for the amount of total per bushel premiums to be paid to producers;

(E) a per bushel amount of incentive payments requested for each year under this section that—

(i) does not exceed  $\frac{1}{3}$  of the total premium offered for any year; and

(ii) declines over time;

(F) the period of time, of not to exceed 4 years, during which incentive payments are to be provided to producers; and

(G) the targeted total quantity of production and estimated acres needed to produce the targeted quantity for each year under this section.

## SENATE AMENDMENT

derived from the oilseed for use in human consumption; or

(B) adopting new technology traits; and

(2) 1 or more impediments to commercialization.

### (c) REQUEST FOR PROPOSALS.—

(1) **ISSUANCE.**—If funds are made available to carry out this section for a crop year, the Secretary shall issue a request for proposals for payments under this section.

(2) **MULTIYEAR PROPOSALS.**—An entity may submit a multiyear proposal for payments under this section.

(3) **CONTENT OF PROPOSALS.**—A proposal for payments under this section shall include a description of—

(A) each oilseed variety described in subsection (b) and the value of the oilseed variety as a matter of public policy;

(B) a range for the amount of total per bushel or hundredweight premiums to be paid to producers;

(C) a per bushel or hundredweight amount of incentive payments requested for each year under this section that does not exceed  $\frac{1}{3}$  of the total premium offered for any year;

(D) the period of time, not to exceed 4 years, during which incentive payments are to be provided to producers; and

(E) the targeted total quantity of production and estimated acres needed to produce the targeted quantity for each year under this section.

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<p>(d) <b>CONTRACTS FOR PRODUCTION.</b>—</p> <p>(1) <b>IN GENERAL.</b>—The Secretary shall approve successful proposals submitted under subsection (c) on a timely basis so as to allow successful applicants to offer production contracts to producers beginning in advance of the spring planting season for the 2009 crop year.</p> <p>(2) <b>MULTIYEAR CONTRACTS.</b>—A successful applicant may enter into a multiyear contract with—</p> <p>(A) a specific group of producers; or</p> <p>(B) various groups of producers.</p> <p>(3) <b>TIMING OF PAYMENTS.</b>—The Secretary shall make payments under this section after the Secretary receives documentation that the total premium offered for crops produced under a contract (including the amount of incentive payments) has been made to covered producers.</p> <p>(e) <b>ADMINISTRATION.</b>—If funding provided for a crop year is not fully allocated under the initial request for proposals under subsection (c), the Secretary shall issue additional requests for proposals for subsequent years under this section.</p> <p>(f) <b>AUTHORIZATION OF APPROPRIATIONS.</b>—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2013.</p>	<p>(d) <b>CONTRACTS FOR PRODUCTION.</b>—</p> <p>(1) <b>IN GENERAL.</b>—The Secretary shall approve successful proposals submitted under subsection (c) on a timely basis so as to allow production contracts to be entered into with producers in advance of the spring planting season for the 2009 crop year.</p> <p>(2) <b>TIMING OF PAYMENTS.</b>—The Secretary shall make payments to producers under this section after the Secretary receives documentation that the premium required under a contract has been made to covered producers.</p> <p>(e) <b>ADMINISTRATION.</b>—If funding provided for a crop year is not fully allocated under the initial request for proposals under subsection (c), the Secretary shall issue additional requests for proposals for subsequent crop years under this section.</p> <p>(f) <b>PROPRIETARY INFORMATION.</b>—The Secretary shall protect proprietary information provided to the Secretary for the purpose of administering this section.</p> <p>(g) <b>AUTHORIZATION OF APPROPRIATIONS.</b>—There are authorized to be appropriated to carry out this section \$400,000,000 for the period of fiscal years 2008 through 2012.</p>
	<b>PART III—PEANUTS</b>
	<p><b>SEC. 1301. DEFINITIONS.</b></p> <p>In this part:</p> <p>(1) <b>BASE ACRES FOR PEANUTS.</b>—The term “base acres for peanuts” means the number of acres assigned to a farm pursuant to section 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7952), as in effect on the day before the date of enactment of this Act, subject to any adjustment under section 1302 of this Act.</p> <p>(2) <b>COUNTER-CYCLICAL PAYMENT.</b>—The term “counter-cyclical payment” means a payment made to producers on a farm under section 1304.</p> <p>(3) <b>DIRECT PAYMENT.</b>—The term “direct payment” means a direct payment made</p>

to producers on a farm under section 1303.

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

(5) **PAYMENT ACRES.**—The term “payment acres” means 85 percent of the base acres for peanuts.

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

(7) **PRODUCER.**—

(A) **IN GENERAL.**—The term “producer” means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop on a farm and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

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

(i) not take into consideration the existence of a hybrid seed contract; and

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

(8) **STATE.**—The term “State” means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

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

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

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

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

**(a) ADJUSTMENT OF BASE ACREAGE FOR PEANUTS. —**

**(1) TREATMENT OF CONSERVATION RESERVE CONTRACT ACREAGE.—**

The Secretary shall provide for an adjustment, as appropriate, in the base acres for peanuts for a farm whenever either of the following circumstances occur:

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

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

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

(D) The producer has eligible oilseed acreage as the result of the Secretary designating additional oilseeds.

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

**(b) PREVENTION OF EXCESS BASE ACRES FOR PEANUTS.—**

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

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

(A) Any base acres for the farm for a covered commodity.

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

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

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

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

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

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

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

(c) **REDUCTION IN BASE ACRES.**—

(1) **REDUCTION AT OPTION OF OWNER.**—

(A) **IN GENERAL.**—The owner of a farm may reduce, at any time, the base acres for peanuts for the farm.

(B) **EFFECT OF REDUCTION.**— A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

(2) **REQUIRED ACTION BY SECRETARY.**—

(A) **IN GENERAL.**—The Secretary shall suspend all direct, counter-cyclical, and average crop revenue payments on base acres for peanuts for land that is no longer a farming operation or used in conjunction with a farming operation, as determined by the Secretary.

(B) **REDUCTION.**—The Secretary shall reduce base acres for peanuts in a manner prescribed by the Secretary, for land that—

(i) has been developed for commercial or industrial use unless the producer demonstrates that the land remains devoted exclusively to agricultural production; or

(ii) has been subdivided and developed for multiple residential units or other nonfarming uses, unless the producer demonstrates that the land remains devoted exclusively to agricultural production.

(3) **REVIEW AND REPORT.**—Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall—

(A) track each reconstitution of land that is reported by a producer that is covered by paragraph (2);

(B) include in any end-of-the-year review for purposes of payment limitations or other compliance inspections or other actions taken by the Secretary, a review to ensure compliance with paragraph (2); and

(C) submit to Congress a report that describes the results of the actions taken under subparagraphs (A) and (B).

**SEC. 1303. AVAILABILITY OF DIRECT PAYMENTS FOR PEANUTS.**

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

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

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

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

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(d) **TIME FOR PAYMENT.**—

(1) **IN GENERAL.**—In the case of each of the 2008 through 2012 crop years, the Secretary shall make direct payments under this section not earlier than October 1 of the



calendar year in which the crop is harvested.

**(2) ADVANCE PAMENTS.—**

**(A) OPTION.—**At the option of the producers on a farm, the Secretary shall pay in advance up to 22 percent of the direct payment for peanuts for any of the 2008 through 2011 crop years to the producers on a farm.

**(B) MONTH.—**

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

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

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

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

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

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

**SEC. 1304. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS FOR PEANUTS.**

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

**(b) EFFECTIVE PRICE.—**For purposes of subsection (a), the effective price for peanuts is

equal to the sum of the following:

(1) The higher of the following:

- (A) The national average market price for peanuts received by producers during the 12-month marketing year for peanuts, as determined by the Secretary.
- (B) The national average loan rate for a marketing assistance loan for peanuts in effect for the applicable period under this part.

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

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

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

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

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

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

(f) **TIME FOR PAYMENTS.**—

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

(2) **AVAILABILITY OF PARTIAL PAYMENTS.**—

(A) **IN GENERAL.**—If, before the end of the 12-month marketing year, the Secretary estimates that counter-cyclical payments will be required under this section for a crop year, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for

the crop.

**(B) ELECTION.—**

(i) **IN GENERAL.**—The Secretary shall allow participants to make an election to receive partial payments under subparagraph (A) at any time but not later than 30 days prior to the end of the marketing year for the crop.

(ii) **DATE OF ISSUANCE.**—The Secretary shall issue the partial payment after the date of an announcement by the Secretary but not later than 30 days prior to the end of the marketing year.

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

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

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

**(4) AMOUNT OF PARTIAL PAYMENTS.—**

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

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

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

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

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

**SEC. 1305. PRODUCER AGREEMENT REQUIRED AS CONDITION ON PROVISION OF DIRECT**

**PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.**

**(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—**

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

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

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

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

(D) to use the land on the farm, in a quantity equal to the attributable base acres for peanuts and any base acres for the farm under part I, for an agricultural or conserving use, and not for a nonagricultural commercial, industrial, or residential use (including land subdivided and developed into residential units or other nonfarming uses, or that is otherwise no longer intended to be used in conjunction with a farming operation), as determined by the Secretary; and

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

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

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

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

**(1) TERMINATION.—**

(A) **IN GENERAL.**—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in the base acres for peanuts for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to those acres, unless the transferee or

owner of the acreage agrees to assume all obligations under subsection (a).

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

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

(c) **ACREAGE REPORTS.**—

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

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

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

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

**SEC. 1306. PLANTING FLEXIBILITY.**

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

(b) **LIMITATIONS REGARDING CERTAIN COMMODITIES.**—

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

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

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

(A) Fruits.

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

(C) Wild rice.

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

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

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

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

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

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

**SEC. 1307. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS.**

(a) **NONRECOURSE LOANS AVAILABLE.**—

(1) **AVAILABILITY.**—Except as provided in section 1401, for each of the 2008 through 2012 crops of peanuts, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm.

(2) **TERMS AND CONDITIONS.**—The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b).

(3) **ELIGIBLE PRODUCTION.**—The producers on a farm shall be eligible for a

marketing assistance loan under this subsection for any quantity of peanuts produced on the farm.

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

*Paragraphs (5) and (6), see Sec. 1201*

(7) **STORAGE, HANDLING, AND ASSOCIATED COSTS.**—

(A) **IN GENERAL.**—Beginning with the 2007 crop of peanuts, to ensure proper storage of peanuts for which a loan is made under this section or section 1307 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7957), the Secretary shall use the funds of the Commodity Credit Corporation to pay handling and other associated costs (other than storage costs) incurred at the time at which the peanuts are placed under loan, as determined by the Secretary.

(B) **REDEMPTION AND FORFEITURE.**—The Secretary shall—

(i) require the repayment of handling and other associated costs paid under subparagraph (A) for all peanuts pledged as collateral for a loan that is redeemed under this section or section 1307 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7957); and

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

*Paragraph (8), see Sec. 1201*

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

(c) **TERM OF LOAN.**—

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

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

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

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

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

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

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

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

(e) **LOAN DEFICIENCY PAYMENTS.**—

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

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

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

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

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

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

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



(4) **EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.**—

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

(B) **APPLICABILITY.**—This paragraph does not apply for the 2009 through 2012 crop years.

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

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

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

(a) **ADJUSTMENT AUTHORITY.**—The Secretary may make appropriate adjustments in the loan rates for peanuts for differences in grade, type, quality, location, and other factors.

(b) **MANNER OF ADJUSTMENT.**—The adjustments under subsection (a) shall, to the maximum extent practicable, be made in such a manner that the average loan level for peanuts will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined in accordance with this subtitle and subtitles B through E.

(c) **ADJUSTMENT ON COUNTY BASIS.**—

(1) **IN GENERAL.**—The Secretary may establish loan rates for a crop of peanuts for producers in individual counties in a manner that results in the lowest loan rate being 95 percent of the national average loan rate, if those loan rates do not result in an increase in outlays.

(2) **PROHIBITION.**—Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

	Subtitle B--Average Crop Revenue Program
	<p><b>SEC. 1401. AVAILABILITY OF AVERAGE CROP REVENUE PAYMENTS.</b></p> <p>(a) <b>AVAILABILITY AND ELECTION OF ALTERNATIVE APPROACH.—</b></p> <p>(1) <b>AVAILABILITY OF AVERAGE CROP REVENUE PAYMENTS.—</b>As an alternative to receiving payments or loans under subtitle A with respect to all covered commodities and peanuts on a farm (other than loans for graded and nongraded wool, mohair, and honey), the Secretary shall give the producers on the farm an opportunity to make a 1-time election to instead receive average crop revenue payments under this section for—</p> <ul style="list-style-type: none"><li>(A) the 2010, 2011, and 2012 crop years;</li><li>(B) the 2011 and 2012 crop years; or</li><li>(C) the 2012 crop year.</li></ul> <p>(2) <b>ELECTION; TIME FOR ELECTION.—</b></p> <p>(A) <b>IN GENERAL.—</b>The Secretary shall provide notice to producers regarding the opportunity to make the election described in paragraph (1).</p> <p>(B) <b>NOTICE REQUIREMENTS.—</b>The notice shall include—</p> <ul style="list-style-type: none"><li>(i) notice of the opportunity of the producers on a farm to make the election; and</li><li>(ii) information regarding the manner in which the election must be made and the time periods and manner in which notice of the election must be submitted to the Secretary.</li></ul> <p>(3) <b>ELECTION DEADLINE.—</b>Within the time period and in the manner prescribed pursuant to paragraph (2), the producers on a farm shall submit to the Secretary notice of the election made under paragraph (1).</p> <p>(4) <b>EFFECTIVE OF FAILURE TO MAKE ELECTION.—</b>If the producers on a farm fail to make the election under paragraph (1) or fail to timely notify the Secretary of the election made, as required by paragraph (3), the producers shall be deemed to have made the election to receive payments and loans under subtitle A for all covered commodities and peanuts on the farm for the applicable crop year.</p> <p>(b) <b>PAYMENTS REQUIRED.—</b></p> <p>(1) <b>IN GENERAL.—</b>In the case of producers on a farm who make the election under</p>

subsection (a) to receive average crop revenue payments, for any of the 2010 through 2012 crop years for all covered commodities and peanuts, the Secretary shall make average crop revenue payments available to the producers on a farm in accordance with this subsection.

(2) **FIXED PAYMENT COMPONENT.**—Subject to paragraph (3), in the case of producers on a farm described in paragraph (1), the Secretary shall make average crop revenue payments available to the producers on a farm for each crop year in an amount equal to not less than the product obtained by multiplying—

(A) \$15 per acre; and

(B) 100 percent of the quantity of base acres on the farm for all covered commodities and peanuts (as adjusted in accordance with the terms and conditions of section 1101 or 1302, as determined by the Secretary).

(3) **REVENUE COMPONENT.**—The Secretary shall increase the amount of the average crop revenue payments available to the producers on a farm in a State for a crop year if—

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

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

(4) **TIME FOR PAYMENTS.**—In the case of each of the 2010 through 2012 crop years, the Secretary shall make average crop revenue payments beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for the covered commodity or peanuts.

(c) **ACTUAL STATE REVENUE.**—

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

(A) the actual State yield for each planted acre for the crop year for the covered commodity or peanuts determined under paragraph (2); and

(B) the average crop revenue program harvest price for the crop year for the covered commodity or peanuts determined under paragraph (3).

(2) **ACTUAL STATE YIELD.**—For purposes of paragraph (1)(A) and subsection

(d)(1)(A), the actual State yield for each planted acre for a crop year for a covered commodity or peanuts in a State shall equal (as determined by the Secretary) —

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

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

**(3) AVERAGE CROP REVENUE PROGRAM HARVEST PRICE.—**

(A) **IN GENERAL.**—For purposes of paragraph (1)(B), subject to subparagraph (B), the average crop revenue program harvest price for a crop year for a covered commodity or peanuts in a State shall equal the harvest price that is used to calculate revenue under revenue coverage plans that are offered for the crop year for the covered commodity or peanuts in the State under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

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

**(d) AVERAGE CROP REVENUE PROGRAM GUARANTEE.—**

(1) **IN GENERAL.**—The average crop revenue program guarantee for a crop year for a covered commodity or peanuts in a State shall equal 90 percent of the product obtained by multiplying—

(A) the expected State yield for each planted acre for the crop year for the covered commodity or peanuts in a State determined under paragraph (2); and

(B) the average crop revenue program pre-planting price for the crop year for the covered commodity or peanuts determined under paragraph (3).

**(2) EXPECTED STATE YIELD.—**

(A) **IN GENERAL.**—For purposes of paragraph (1)(A), subject to subparagraph (B), the expected State yield for each planted acre for a crop year for a covered commodity or peanuts in a State shall equal the projected yield for the crop year for the covered commodity or peanuts in the State, based on a linear regression trend of the yield per acre planted to the covered commodity or peanuts in the State during the 1980 through 2006 period using National Agricultural Statistics Service data.

(B) **ASSIGNED YIELD.**—If the Secretary cannot establish the expected State yield for each planted acre for a crop year for a covered commodity or peanuts in a State in accordance with subparagraph (A) or if the linear regression trend of the yield per acre planted to the covered commodity or peanuts in the State (as determined under subparagraph (A)) is negative, the Secretary shall assign an expected State yield for each planted acre for the crop year for the covered commodity or peanuts in the State on the basis of expected State yields for planted acres for the crop year for the covered commodity or peanuts in similar States.

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

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

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

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

(e) **PAYMENT AMOUNT.**—If average crop revenue payments are required to be paid for any of the 2010 through 2012 crop years of a covered commodity or peanuts under subsection (b)(3), in addition to the amount payable under subsection (b)(2), the amount of the average crop revenue payment to be paid to the producers on the farm for the crop year under this section shall be increased by an amount equal to the product obtained by multiplying—

(1) the difference between—

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

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

(2) 85 percent of the quantity of base acres on the farm for the covered commodity or peanuts (as adjusted in accordance with the terms and conditions of section 1101 or 1302, as determined by the Secretary);

(3) the quotient obtained by dividing—

(A)(i) the yield used to calculate crop insurance coverage for the covered commodity or peanuts on the farm under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (commonly referred to as 'actual production history'); or

(ii) if actual production history for the covered commodity or peanuts on the farm is not available, a comparable yield as determined by the Secretary; by

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

(4) 90 percent.

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

**SEC. 1402. PRODUCER AGREEMENT AS CONDITION OF AVERAGE CROP REVENUE PAYMENTS.**

(a) **COMPLIANCE WITH CERTAIN REQUIREMENTS.**—

(1) **REQUIREMENTS.**—Before the producers on a farm may receive average crop revenue payments with respect to the farm, the producers shall agree, and in the case of subparagraph (C), the Farm Service Agency shall certify, during the crop year for which the payments are made and in exchange for the payments—

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

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

(C) that the individuals or entities receiving payments are producers;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for the farm and any base acres for peanuts for the farm under part III of subtitle A, for an agricultural or conserving use, and not for a nonagricultural commercial, industrial, or residential use (including land subdivided and developed into residential units or other nonfarming uses, or that is otherwise no longer intended to be used in conjunction with a farming operation), as determined by the Secretary; and

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

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

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

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

**(1) TERMINATION.—**

(A) **IN GENERAL.**—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm for which average crop revenue payments are made shall result in the termination of the payments, unless the transferee or owner of the farm agrees to assume all obligations under subsection (a).

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

(2) **EXCEPTION.**—If a producer entitled to an average crop revenue payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

**(c) ACREAGE REPORTS.—**

(1) **IN GENERAL.**—As a condition on the receipt of any benefits under this subtitle, the Secretary shall require producers on a farm to submit to the Secretary annual acreage

reports with respect to all cropland on the farm.

(2) **PENALTIES.**—No penalty with respect to benefits under subtitle shall be assessed against the producers on a farm for an inaccurate acreage report unless the producers on the farm knowingly and willfully falsified the acreage report.

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

(e) **SHARING OF PAYMENTS.**—The Secretary shall provide for the sharing of average crop revenue payments among the producers on a farm on a fair and equitable basis.

(f) **AUDIT AND REPORT.**—Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall—

- (1) conduct an audit of average crop revenue payments; and
- (2) submit to Congress a report that describes the results of that audit.

**SEC. 1403. PLANTING FLEXIBILITY.**

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

(b) **LIMITATIONS REGARDING CERTAIN COMMODITIES.**—

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

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

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

- (A) Fruits.
- (B) Vegetables (other than mung beans and pulse crops).
- (C) Wild rice.

(c) **EXCEPTIONS.**—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of



an agricultural commodity specified in paragraph (3) of that subsection—

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

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

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

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

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

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

(e) **PRODUCTION OF FRUITS OR VEGETABLES FOR PROCESSING.**—

(1) **IN GENERAL.**—Subject to paragraphs (2) through (4), effective beginning with the 2010 crop years, producers on a farm that elect to receive average crop revenue payments, with the consent of the owner of and any other producers on the farm, may reduce the base acres for a covered commodity for the farm if the reduced acres are used for the planting and production of fruits or vegetables for processing.

(2) **REVERSION TO BASE ACRES FOR COVERED COMMODITY.**—Any reduced acres on a farm devoted to the planting and production of fruits or vegetables during a crop year under paragraph (1) shall be included in base acres for the covered commodity for the subsequent crop year, unless the producers on the farm make the election described in paragraph (1) for the subsequent crop year.

(3) **RECALCULATION OF BASE ACRES.**—

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# SENATE AMENDMENT

	<p>(A) <b>IN GENERAL.</b>—Subject to subparagraph (B), if the Secretary recalculates base acres for a farm, the planting and production of fruits or vegetables for processing under paragraph (1) shall be considered to be the same as the planting, prevented planting, or production of a covered commodity.</p> <p>(B) <b>AUTHORITY.</b>—Nothing in this subsection provides authority for the Secretary to recalculate base acres for a farm covered by this subsection other than as provided in this subsection.</p> <p>(4) <b>LIMITATIONS.</b>—</p> <p>(A) <b>IN GENERAL.</b>—This subsection applies in land located in each of the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin.</p> <p>(B) <b>ACREAGE LIMIT.</b>—The total number of base acres that may be reduced in any State under this subsection shall not exceed 10,000.</p>
<p><b>Subtitle C—Sugar</b></p>	<p><b>Subtitle C—Sugar</b></p>
<p><b>SEC. 1301. SUGAR PROGRAM.</b></p> <p>(a) <b>IN GENERAL.</b>—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended to read as follows:</p> <p>“<b>SEC. 156. SUGAR PROGRAM.</b></p> <p>“(a) <b>SUGARCANE.</b>—The Secretary shall make loans for raw cane sugar available to processors of domestically grown sugarcane at a rate equal to 18.5 cents per pound for each of the 2008 through 2012 crop years.</p> <p>“(b) <b>SUGAR BEETS.</b>—The Secretary shall make loans for refined beet sugar available to processors of domestically grown sugar beets at a rate equal to 23.5 cents per pound for each of the 2008 through 2012 crop years.</p>	<p><b>SEC. 1501. SUGAR PROGRAM.</b></p> <p>Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended to read as follows:</p> <p>“<b>SEC. 156. SUGAR PROGRAM.</b></p> <p>“(a) <b>SUGARCANE.</b>—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to—</p> <p>“(1) 18.00 cents per pound for raw cane sugar for the 2008 crop year;</p> <p>“(2) 18.25 cents per pound for raw cane sugar for the 2009 crop year;</p> <p>“(3) 18.50 cents per pound for raw cane sugar for the 2010 crop year;</p> <p>“(4) 18.75 cents per pound for raw cane sugar for the 2011 crop year; and</p> <p>“(5) 19.00 cents per pound for raw cane sugar for the 2012 crop year.</p> <p>“(b) <b>SUGAR BEETS.</b>—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate per pound for refined beet sugar that is equal to 128.5 percent of the loan rate per pound of raw cane sugar for the applicable crop year under subsection (a).</p>

## HOUSE BILL (2419)

## SENATE AMENDMENT

### “(c) TERM OF LOANS.—

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

“(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

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

“(2) **SUPPLEMENTAL LOANS.**—In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

“(A) be made at the loan rate in effect at the time the first loan was made; and

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

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

“(1) **NONRECOURSE LOANS.**—The Secretary shall carry out this section through the use of nonrecourse loans.

#### “(2) **PROCESSOR ASSURANCES.**—

“(A) **IN GENERAL.**—The Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for the sugar beets and sugarcane delivered by producers to the processor.

#### “(B) **MINIMUM PAYMENTS.**—

“(i) **IN GENERAL.**—Subject to clause (ii), the Secretary may establish appropriate minimum payments for purposes of this paragraph.

“(ii) **LIMITATION.**—In the case of sugar beets, the minimum payment established under clause (i) shall not exceed the rate of

### “(c) TERM OF LOANS.—

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

“(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

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

“(2) **SUPPLEMENTAL LOANS.**—In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

“(A) be made at the loan rate in effect at the time the first loan was made; and

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

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

“(1) **NONRECOURSE LOANS.**—The Secretary shall carry out this section through the use of nonrecourse loans.

#### “(2) **PROCESSOR ASSURANCES.**—

“(A) **IN GENERAL.**—The Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for the sugar beets and sugarcane delivered by producers to the processor.

#### “(B) **MINIMUM PAYMENTS.**—

“(i) **IN GENERAL.**—Subject to clause (ii), the Secretary may establish appropriate minimum payments for purposes of this paragraph.

“(ii) **LIMITATION.**—In the case of sugar beets, the minimum payment established under clause (i) shall not exceed the rate of

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payment provided for under the applicable contract between a sugar beet producer and a sugar beet processor.

“(3) **ADMINISTRATION.**—The Secretary may not impose or enforce any prenotification requirement, or similar administrative requirement not otherwise in effect on May 13, 2002, that has the effect of preventing a processor from electing to forfeit the loan collateral (of an acceptable grade and quality) on the maturity of the loan.

“(e) **LOANS FOR IN-PROCESS SUGAR.**—

“(1) **DEFINITION OF IN-PROCESS SUGARS AND SYRUPS.**—In this subsection, the term ‘in-process sugars and syrups’ does not include raw sugar, liquid sugar, invert sugar, invert syrup, or other finished product that is otherwise eligible for a loan under subsection (a) or (b).

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

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

“(4) **FURTHER PROCESSING ON FORFEITURE.**—

“(A) **IN GENERAL.**—As a condition of the forfeiture of in-process sugars and syrups serving as collateral for a loan under paragraph (2), the processor shall, within such reasonable time period as the Secretary may prescribe and at no cost to the Commodity Credit Corporation, convert the in-process sugars and syrups into raw cane sugar or refined beet sugar of acceptable grade and quality for sugars eligible for loans under subsection (a) or (b).

“(B) **TRANSFER TO CORPORATION.**—Once the in-process sugars and syrups are fully processed into raw cane sugar or refined beet sugar, the processor shall transfer the sugar to the Commodity Credit Corporation.

“(C) **PAYMENT TO PROCESSOR.**—On transfer of the sugar, the Secretary shall make a payment to the processor in an amount equal to the amount obtained by multiplying—

“(i) the difference between—

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payment provided for under the applicable contract between a sugar beet producer and a sugar beet processor.

“(3) **ADMINISTRATION.**—The Secretary may not impose or enforce any prenotification requirement, or similar administrative requirement not otherwise in effect on May 13, 2002, that has the effect of preventing a processor from electing to forfeit the loan collateral (of an acceptable grade and quality) on the maturity of the loan.

“(e) **LOANS FOR IN-PROCESS SUGAR.**—

“(1) **DEFINITION OF IN-PROCESS SUGARS AND SYRUPS.**—In this subsection, the term ‘in-process sugars and syrups’ does not include raw sugar, liquid sugar, invert sugar, invert syrup, or other finished product that is otherwise eligible for a loan under subsection (a) or (b).

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

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

“(4) **FURTHER PROCESSING ON FORFEITURE.**—

“(A) **IN GENERAL.**—As a condition of the forfeiture of in-process sugars and syrups serving as collateral for a loan under paragraph (2), the processor shall, within such reasonable time period as the Secretary may prescribe and at no cost to the Commodity Credit Corporation, convert the in-process sugars and syrups into raw cane sugar or refined beet sugar of acceptable grade and quality for sugars eligible for loans under subsection (a) or (b).

“(B) **TRANSFER TO CORPORATION.**—Once the in-process sugars and syrups are fully processed into raw cane sugar or refined beet sugar, the processor shall transfer the sugar to the Commodity Credit Corporation.

“(C) **PAYMENT TO PROCESSOR.**—On transfer of the sugar, the Secretary shall make a payment to the processor in an amount equal to the amount obtained by multiplying—

“(i) the difference between—

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“(I) the loan rate for raw cane sugar or refined beet sugar, as appropriate; and

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

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

“(5) **LOAN CONVERSION.**—If the processor does not forfeit the collateral as described in paragraph (4), but instead further processes the in-process sugars and syrups into raw cane sugar or refined beet sugar and repays the loan on the in-process sugars and syrups, the processor may obtain a loan under subsection (a) or (b) for the raw cane sugar or refined beet sugar, as appropriate.

“(6) **TERM OF LOAN.**—The term of a loan made under this subsection for a quantity of in-process sugars and syrups, when combined with the term of a loan made with respect to the raw cane sugar or refined beet sugar derived from the in-process sugars and syrups, may not exceed 9 months, consistent with subsection (c).

“(f) **AVOIDING FORFEITURES; CORPORATION INVENTORY DISPOSITION.**—

“(1) **IN GENERAL.**—Subject to subsection (d)(3), to the maximum extent practicable, the Secretary shall operate the program established under this section at no cost to the Federal Government by avoiding the forfeiture of sugar to the Commodity Credit Corporation.

“(2) **INVENTORY DISPOSITION.**—

“(A) **IN GENERAL.**—To carry out paragraph (1), the Commodity Credit Corporation may accept bids to obtain raw cane sugar or refined beet sugar in the inventory of the Commodity Credit Corporation from (or otherwise make available such commodities, on appropriate terms and conditions, to) processors of sugarcane and processors of sugar beets (acting in conjunction with the producers of the sugarcane or sugar beets processed by the processors) in return for the reduction of production of raw cane sugar or refined beet sugar, as appropriate.

“(B) **BIOENERGY FEEDSTOCK.**—If a reduction in the quantity of production accepted under subparagraph (A) involves sugar beets or sugarcane that has already been planted, the sugar beets or sugarcane so planted may not be used for any commercial purpose other than as a

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“(I) the loan rate for raw cane sugar or refined beet sugar, as appropriate; and

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

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

“(5) **LOAN CONVERSION.**—If the processor does not forfeit the collateral as described in paragraph (4), but instead further processes the in-process sugars and syrups into raw cane sugar or refined beet sugar and repays the loan on the in-process sugars and syrups, the processor may obtain a loan under subsection (a) or (b) for the raw cane sugar or refined beet sugar, as appropriate.

“(6) **TERM OF LOAN.**—The term of a loan made under this subsection for a quantity of in-process sugars and syrups, when combined with the term of a loan made with respect to the raw cane sugar or refined beet sugar derived from the in-process sugars and syrups, may not exceed 9 months, consistent with subsection (c).

“(g) **AVOIDING FORFEITURES; CORPORATION INVENTORY DISPOSITION.**—

“(1) **IN GENERAL.**—Subject to subsection (d)(3), to the maximum extent practicable, the Secretary shall operate the program established under this section at no cost to the Federal Government by avoiding the forfeiture of sugar to the Commodity Credit Corporation.

“(2) **INVENTORY DISPOSITION.**—

“(A) **IN GENERAL.**—To carry out paragraph (1), the Commodity Credit Corporation may accept bids to obtain raw cane sugar or refined beet sugar in the inventory of the Commodity Credit Corporation from (or otherwise make available such commodities, on appropriate terms and conditions, to) processors of sugarcane and processors of sugar beets (acting in conjunction with the producers of the sugarcane or sugar beets processed by the processors) in return for the reduction of production of raw cane sugar or refined beet sugar, as appropriate.

“(B) **BIOENERGY FEEDSTOCK.**—Sugar beets or sugarcane planted on acreage diverted from production to achieve any reduction required under subparagraph (A) may not be used for any commercial purpose other than as a bioenergy feedstock.

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bioenergy feedstock.

“(C) **ADDITIONAL AUTHORITY.**—The authority provided under this paragraph is in addition to any authority of the Commodity Credit Corporation under any other law.

“(g) **INFORMATION REPORTING.**—

“(1) **DUTY OF PROCESSORS AND REFINERS TO REPORT.**—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

“(2) **DUTY OF PRODUCERS TO REPORT.**—

“(A) **PROPORTIONATE SHARE STATES.**—As a condition of a loan made to a processor for the benefit of a producer, the Secretary shall require each producer of sugarcane located in a State (other than the Commonwealth of Puerto Rico) in which there are in excess of 250 producers of sugarcane to report, in the manner prescribed by the Secretary, the sugarcane yields and acres planted to sugarcane of the producer.

“(B) **OTHER STATES.**—The Secretary may require each producer of sugarcane or sugar beets not covered by subparagraph (A) to report, in a manner prescribed by the Secretary, the yields of, and acres planted to, sugarcane or sugar beets, respectively, of the producer.

“(3) **DUTY OF IMPORTERS TO REPORT.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary shall require an importer of sugars, syrups, or molasses to be used for human consumption or to be used for the extraction of sugar for human consumption to report, in the manner prescribed by the Secretary, the quantities of the products imported by the importer and the sugar content or equivalent of the products.

“(B) **TARIFF-RATE QUOTAS.**—Subparagraph (A) shall not apply to sugars, syrups, or molasses that are within the quantities of tariff-rate quotas that are subject to the lower rate of duties.

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“(C) **ADDITIONAL AUTHORITY.**—The authority provided under this paragraph is in addition to any authority of the Commodity Credit Corporation under any other law.

“(h) **INFORMATION REPORTING.**—

“(1) **DUTY OF PROCESSORS AND REFINERS TO REPORT.**—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

“(2) **DUTY OF PRODUCERS TO REPORT.**—

“(A) **PROPORTIONATE SHARE STATES.**—As a condition of a loan made to a processor for the benefit of a producer, the Secretary shall require each producer of sugarcane located in a State (other than the Commonwealth of Puerto Rico) in which there are in excess of 250 producers of sugarcane to report, in the manner prescribed by the Secretary, the sugarcane yields and acres planted to sugarcane of the producer.

“(B) **OTHER STATES.**—The Secretary may require each producer of sugarcane or sugar beets not covered by subparagraph (A) to report, in a manner prescribed by the Secretary, the yields of, and acres planted to, sugarcane or sugar beets, respectively, of the producer.

“(3) **DUTY OF IMPORTERS TO REPORT.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary shall require an importer of sugars, syrups, or molasses to be used for human consumption or to be used for the extraction of sugar for human consumption to report, in the manner prescribed by the Secretary, the quantities of the products imported by the importer and the sugar content or equivalent of the products.

“(B) **TARIFF-RATE QUOTAS.**—Subparagraph (A) shall not apply to sugars, syrups, or molasses that are within the quantities of tariff-rate quotas that are subject to the lower rate of duties.

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“(4) **COLLECTION OF INFORMATION ON MEXICO.**—

“(A) **COLLECTION.**—The Secretary shall collect—

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

“(ii) publicly available information on Mexican production, consumption, and trade of high fructose corn syrups, including United States exports of high fructose corn syrups to Mexico.

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

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

“(6) **MONTHLY REPORTS.**—Taking into consideration the information received under this subsection, the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

“(h) **SUBSTITUTION OF REFINED SUGAR.**—For purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the reexport programs and polyhydric alcohol program administered by the Secretary, all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for the export of sugar and sugar-containing products under those programs.

“(i) **EFFECTIVE PERIOD.**—This section shall be effective only for the 2008 through 2012 crops of sugar beets and sugarcane.”.

(b) **TRANSITION.**—The Secretary of Agriculture shall make loans for raw cane sugar and refined beet sugar available for the 2007 crop year on the terms and conditions provided in section 156 of the Federal Agriculture Improvement and Reform Act of 1996 ([7 U.S.C. 7272](#)), as in effect on the day before the date of the enactment of this Act.

“(4) **INFORMATION ON MEXICO.**—

“(A) **COLLECTION.**—The Secretary shall collect—

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

“(ii) publicly available information on Mexican production, consumption, and trade of high fructose corn syrups.

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

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

“(6) **MONTHLY REPORTS.**—Taking into consideration the information received under this subsection, the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

“(i) **SUBSTITUTION OF REFINED SUGAR.**—For purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the reexport programs and polyhydric alcohol program administered by the Secretary, all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for the export of sugar and sugar-containing products under those programs.

“(j) **EFFECTIVE PERIOD.**—

“(1) **IN GENERAL.**—This section shall be effective only for the 2008 through 2012 crops of sugar beets and sugarcane.

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

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# SENATE AMENDMENT

## SEC. 1302. UNITED STATES MEMBERSHIP IN THE INTERNATIONAL SUGAR ORGANIZATION.

The Secretary of Agriculture shall work with the Secretary of State to restore United States membership in the International Sugar Organization within one year after the date of enactment of this Act.

## SEC. 1504. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

(1) **UNITED STATES MEMBERSHIP IN THE INTERNATIONAL SUGAR ORGANIZATION.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall work with the Secretary of State to restore, to the maximum extent practicable, United States membership in the International Sugar Organization.

## SEC. 1303. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

(a) **DEFINITION OF HUMAN CONSUMPTION.**—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively; and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph (1):

“(1) **HUMAN CONSUMPTION.**—The term ‘human consumption’, when used in the context of a reference to sugar (whether in the form of sugar, in-process sugar, syrup, molasses, or in some other form) for human consumption, includes sugar for use in human food, beverages, or similar products.”.

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

### “SEC. 359b. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

“(a) **SUGAR ESTIMATES.**—

“(1) **IN GENERAL.**—Not later than August 1 before the beginning of each of the 2008 through 2012 crop years for sugarcane and sugar beets, the Secretary shall estimate—

“(A) the quantity of sugar that will be subject to human consumption in the United States during the crop year;

“(B) the quantity of sugar that would provide for reasonable carryover stocks;

“(C) the quantity of sugar that will be available from carry-in stocks

## SEC. 1504. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

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

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (4), (5), and (6), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

“(1) **HUMAN CONSUMPTION.**—The term ‘human consumption’, when used in the context of a reference to sugar (whether in the form of sugar, in-process sugar, syrup, molasses, or in some other form) for human consumption, includes sugar for use in human food, beverages, or similar products.”; and

*Paragraph (3); see subsection 1504(b).*

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

### “SEC. 359b. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

“(a) **SUGAR ESTIMATES.**—

“(1) **IN GENERAL.**—Not later than August 1 before the beginning of each of the 2008 through 2012 crop years for sugarcane and sugar beets, the Secretary shall estimate—

“(A) the quantity of sugar that will be subject to human consumption in the United States during the crop year;

“(B) the quantity of sugar that would provide for reasonable carryover stocks;

“(C) the quantity of sugar that will be available from carry-in stocks for



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for human consumption in the United States during the crop year;

“(D) the quantity of sugar that will be available from the domestic processing of sugarcane, sugar beets, and in-process beet sugar; and

“(E) the quantity of sugars, syrups, and molasses that will be imported for human consumption or to be used for the extraction of sugar for human consumption in the United States during the crop year, whether such articles are under a tariff-rate quota or are in excess or outside of a tariff-rate quota.

“(2) **EXCLUSION.**—The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.

“(3) **REESTIMATES.**—The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but no later than the beginning of each of the second through fourth quarters of the crop year.

### “(b) SUGAR ALLOTMENTS.—

“(1) **ESTABLISHMENT.**—By the beginning of each crop year, the Secretary shall establish for that crop year appropriate allotments under section 359c for the marketing by processors of sugar processed from sugar cane or sugar beets or in-process beet sugar (whether such sugar beets or in-process beet sugar was produced domestically or imported) at a level sufficient to maintain raw and refined sugar prices above forfeiture levels so that there will be no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

“(2) **MINIMUM.**—The level of allotments established under paragraph (1) may not be less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

“(3) **PRODUCTS.**—The Secretary may include sugar products, whose majority content is sucrose, in the allotments established under paragraph (1) if the Secretary determines that the inclusion of such sugar products is appropriate for controlling the supply of sugar for human consumption.

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human consumption in the United States during the crop year;

“(D) the quantity of sugar that will be available from the domestic processing of sugarcane, sugar beets, and in-process beet sugar; and

“(E) the quantity of sugars, syrups, and molasses that will be imported for human consumption or to be used for the extraction of sugar for human consumption in the United States during the crop year, whether the articles are under a tariff-rate quota or are in excess or outside of a tariff-rate quota.

“(2) **EXCLUSION.**—The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.

“(3) **REESTIMATES.**—The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but not later than the beginning of each of the second through fourth quarters of the crop year.

### “(b) SUGAR ALLOTMENTS.—

“(1) **ESTABLISHMENT.**—By the beginning of each crop year, the Secretary shall establish for that crop year appropriate allotments under section 359c for the marketing by processors of sugar processed from sugar cane or sugar beets or in-process beet sugar (whether the sugar beets or in-process beet sugar was produced domestically or imported) at a level that is—

“(A) sufficient to maintain raw and refined sugar prices above forfeiture levels so that there will be no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272); but

“(B) not less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

“(2) **PRODUCTS.**—The Secretary may include sugar products, the majority content of which is sucrose for human consumption, derived from sugar cane, sugar beets, molasses, or sugar in the allotments established under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part.

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### “(c) COVERAGE OF ALLOTMENTS.—

“(1) **IN GENERAL.**—The marketing allotments provided for in this part shall apply to the marketing by processors of sugar intended for domestic human consumption that has been processed from sugar cane or sugar beets or in-process beet sugar (whether such sugar beets or in-process beet sugar was produced domestically or imported).

“(2) **EXCEPTIONS.**—Consistent with the administration of marketing allotments during crop years 2002 through 2007, the marketing allotments shall not apply to sugar sold—

“(A) to facilitate the exportation of such sugar to a foreign country, except that such exports of sugar shall not be eligible to receive credits under re-export programs for refined sugar or sugar containing products administered by the Secretary;

“(B) to enable another processor to fulfill an allocation established for such other processor, except that such sales must be made before May 1 and must be reported to the Secretary; or

“(C) for uses other than domestic human consumption.

### “(d) PROHIBITIONS.—

“(1) **IN GENERAL.**—During any crop year or portion thereof for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market for domestic human consumption a quantity of sugar in excess of the allocation established for such processor, except to enable another processor to fulfill an allocation established for such other processor or to facilitate the exportation of such sugar.

### “(c) COVERAGE OF ALLOTMENTS.—

“(1) **IN GENERAL.**—The marketing allotments under this part shall apply to the marketing by processors of sugar intended for domestic human consumption that has been processed from sugar cane, sugar beets, or in-process beet sugar, whether such sugar beets or in-process beet sugar was produced domestically or imported.

“(2) **EXCEPTIONS.**—Consistent with the administration of marketing allotments during for each of the 2002 through 2007 crop years, the marketing allotments shall not apply to sugar sold—

“(A) to facilitate the exportation of the sugar to a foreign country, except that the exports of sugar shall not be eligible to receive credits under reexport programs for refined sugar or sugar containing products administered by the Secretary;

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

“(C) for uses other than domestic human consumption, except for the sale of sugar for the production of ethanol or other bioenergy if the disposition of the sugar is administered by the Secretary under section 156(f) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(f)).

“(3) **REQUIREMENT.**—The sale of sugar described in paragraph (2)(B) shall be—

“(A) made prior to May 1; and

“(B) reported to the Secretary.

### “(d) PROHIBITIONS.—

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

“(A) to enable another processor to fulfill an allocation established for that other processor; or

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

“(3) **DEFINITION OF MARKET.**—For purposes of this part, the term ‘market’ shall mean to sell or otherwise dispose of in commerce in the United States, including—

“(A) the forfeiture of sugar under the loan program for sugar under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) and such forfeited sugar shall be deemed to have been marketed during the crop year in which the loan was made;

“(B) with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process; and

“(C) the sale of sugar for the production of ethanol or other bioenergy product, if such ethanol or bioenergy product is the subject of a payment under the feedstock flexibility program for bioenergy producers.”.

(c) **ESTABLISHMENT.**—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

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

“(b) **OVERALL ALLOTMENT QUANTITY.**—

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

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

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

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(3) by inserting after paragraph (2) (as so redesignated) the following:

“(3) **MARKET.**—

“(A) **IN GENERAL.**—The term “market” means to sell or otherwise dispose of in commerce in the United States.

“(B) **INCLUSIONS.**—The term “market” includes—

“(i) the forfeiture of sugar under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272);

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

“(iii) the sale of sugar for the production of ethanol or other bioenergy product, if the disposition of the sugar is administered by the Secretary under section 156(f) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(f)).

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

(c) **ESTABLISHMENT OF FLEXIBLE MARKETING ALLOTMENTS.**—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

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

“(b) **OVERALL ALLOTMENT QUANTITY.**—

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“(1) **IN GENERAL.**—The Secretary shall establish the overall quantity of sugar to be allotted for the crop year (in this part referred to as the ‘overall allotment quantity’) at a level sufficient to maintain raw and refined sugar prices above forfeiture levels to avoid the forfeiture of sugar to the Commodity Credit Corporation.

“(2) **MINIMUM.**—The overall allotment quantity established under paragraph (1) may not be less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

“(3) **ADJUSTMENT.**—Subject to paragraphs (1) and (2), the Secretary shall adjust the overall allotment quantity—

“(A) to maintain raw and refined sugar prices above forfeiture levels to avoid the forfeiture of sugar to the Commodity Credit Corporation; and

“(B) to maintain adequate supplies of raw and refined sugar in the domestic market.”;

(2) in subsection (d)(2), by inserting before the period the following: “or in-process beet sugar”;

(3) in subsection (g)(1), by inserting at the end the following new sentence: “However, the overall allotment quantity may not be reduced to a quantity less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.”; and

(4) by striking subsection (h).

(d) **ALLOCATION OF MARKETING ALLOTMENTS.**—Section 359d(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd(b)) is amended—

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“(1) **IN GENERAL.**—The Secretary shall establish the overall quantity of sugar to be allotted for the crop year (referred to in this part as the “overall allotment quantity”) at a level that is—

“(A) sufficient to maintain raw and refined sugar prices above forfeiture levels to avoid forfeiture of sugar to the Commodity Credit Corporation; but

“(B) not less than a quantity equal to 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

“(2) **ADJUSTMENT.**—Subject to paragraph (1), the Secretary shall adjust the overall allotment quantity to maintain—

“(A) raw and refined sugar prices above forfeiture levels to avoid the forfeiture of sugar to the Commodity Credit Corporation; and

“(B) adequate supplies of raw and refined sugar in the domestic market”;

(2) in subsection (d)(2), by inserting “or in-process beet sugar” before the period at the end;

(3) in subsection (g)(1) —

(A) by striking “(1) **IN GENERAL.** The Secretary” and inserting the following:

“(1) **ADJUSTMENTS.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), the Secretary”; and

(B) by adding at the end the following:

“(B) **LIMITATION.**—In carrying out subparagraph (A), the Secretary may not reduce the overall allotment quantity to a quantity of less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.”; and

(4) by striking subsection (h).

(d) **ALLOCATION OF MARKETING ALLOTMENTS.**—Section 359d(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd(b)) is amended—

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(1) in paragraph (1)(F), by striking “Except as otherwise provided in section 359f(c)(8), if” and inserting “If”; and

(2) in paragraph (2), by striking subparagraphs (H) and (I) and inserting the following new subparagraph:

**“(H) NEW ENTRANTS STARTING PRODUCTION, REOPENING, OR ACQUIRING AN EXISTING FACTORY WITH PRODUCTION HISTORY.—**

**“(i) ALLOCATION FOR A NEW ENTRANT THAT HAS CONSTRUCTED A NEW FACTORY OR REOPENED A FACTORY THAT WAS NOT OPERATING SINCE BEFORE 1998.—**If a New Entrant constructs a new sugar beet processing factory, or acquires and reopens a sugar beet processing factory that last processed sugar beets prior to the 1998 crop year and there is no allocation currently associated with the factory, the Secretary shall—

“(I) assign an allocation for beet sugar to the New Entrant that provides a fair and equitable distribution of the allocations for beet sugar in order to enable the New Entrant to achieve a factory utilization rate comparable to the factory utilization rates of other similarly situated processors; and

“(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the allocation to the New Entrant.

**“(ii) ALLOCATION FOR A NEW ENTRANT THAT HAS ACQUIRED AN EXISTING FACTORY WITH A PRODUCTION HISTORY.—**If a New Entrant acquires an existing factory that has processed sugar beets from the 1998 or later crop years and has a production history, then, upon the mutual agreement of the New Entrant and the company currently holding the allocation associated with the factory, the Secretary shall transfer to the New Entrant a portion of allocation of the current allocation holder to reflect the historical contribution of the production of the acquired factory to the total allocation of the current allocation holder. In the absence of mutual agreement, the new entrant shall be ineligible for a beet sugar allocation.

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(1) in paragraph (1)(F), by striking “Except as otherwise provided in section 359f(c)(8), if” and inserting “If”; and

(2) in paragraph (2), by striking subparagraphs (H) and (I) and inserting the following:

**“(H) NEW ENTRANTS STARTING PRODUCTION, REOPENING OR REOPENING FACTORIES.—**

**“(ii) ALLOCATION FOR A NEW ENTRANT THAT HAS CONSTRUCTED A NEW FACTORY OR REOPENED A FACTORY THAT WAS NOT OPERATED SINCE BEFORE 1998.—** If a new entrant constructs a new sugar beet processing factory, or acquires and reopens a sugar beet processing factory that last processed sugar beets prior to the 1998 crop year and there is no allocation currently associated with the factory, the Secretary shall—

“(I) assign an allocation for beet sugar to the new entrant that provides a fair and equitable distribution of the allocations for beet sugar so as to enable the new entrant to achieve a factory utilization rate comparable to the factory utilization rates of other similarly-situated processors; and

“(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the allocation to the new entrant.

**“(iii) ALLOCATION FOR A NEW ENTRANT THAT HAS ACQUIRED AN EXISTING FACTORY WITH A PRODUCTION HISTORY.—**

**“(I) IN GENERAL.—**If a new entrant acquires an existing factory that has processed sugar beets from the 1998 or subsequent crop year and has a production history, on the mutual agreement of the new entrant and the company currently holding the allocation associated with the factory, the Secretary shall transfer to the new entrant a portion of the allocation of the current allocation holder to reflect the historical contribution of the production of the acquired factory to the total allocation of the current allocation holder.

**“(II) PROHIBITION.—**In the absence of a mutual agreement described in subclause (I), the new entrant shall be

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“(iii) **APPEALS.**—Any decision made under this subsection may be appealed to the Secretary pursuant to section 359i.

“(iv) **DEFINITION.**—In this subparagraph, the term ‘New Entrant’ means an individual, corporation, or other entity that does not have an allocation of the beet sugar allotment under this part, is not affiliated with any other individual, corporation, or entity that has an allocation of beet sugar under this part (known as a ‘third party’), and will process sugar beets produced by sugar beet growers under contract with the New Entrant for the production of sugar at the new or re-opened factory that is the basis for the New Entrant allocation.

“(v) **AFFILIATION.**—For purposes of this subparagraph, a New Entrant and a third party shall be deemed to be ‘affiliated’ if—

“(I) the third party has an ownership interest in the New Entrant;

“(II) the New Entrant and the third party have owners in common;

“(III) the third party has the ability to exercise control over the New Entrant by organizational rights, contractual rights, or any other means;

“(IV) the third party has a contractual relationship with the New Entrant by which the New Entrant will make use of the facilities or assets of such third party; or

“(V) any other similar circumstance exists by which the Secretary determines that the New Entrant and the third party

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ineligible for a beet sugar allocation.

“(iv) **APPEALS.**—Any decision made under this subsection may be appealed to the Secretary in accordance with section 359i.”.

“(i) **DEFINITION OF NEW ENTRANT.**—

“(I) **IN GENERAL.**—In this subparagraph, the term “new entrant” means an individual, corporation, or other entity that—

“(aa) does not have an allocation of the beet sugar allotment under this part;

“(bb) is not affiliated with any other individual, corporation, or entity that has an allocation of beet sugar under this part (referred to in this clause as a ‘third party’); and

“(cc) will process sugar beets produced by sugar beet growers under contract with the new entrant for the production of sugar at the new or re-opened factory that is the basis for the new entrant allocation.

“(II) **AFFILIATION.**—For purposes of subclause (I)(bb), a new entrant and a third party shall be considered to be affiliated if—

“(aa) the third party has an ownership interest in the new entrant;

“(bb) the new entrant and the third party have owners in common;

“(cc) the third party has the ability to exercise control over the new entrant by organizational rights, contractual rights, or any other means;

“(dd) the third party has a contractual relationship with the new entrant by which the new entrant will make use of the facilities or assets of the third party; or

“(ee) there are any other similar circumstances by which the Secretary determines that the new entrant and

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are affiliated.”.

(e) **REASSIGNMENT OF DEFICITS.**—Section 359e(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee(b)) is amended in both paragraphs (1)(D) and (2)(C) by inserting “of raw cane sugar” after “imports”.

(f) **PROVISIONS APPLICABLE TO PRODUCERS.**—Section 359f(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(c)) is amended—

(1) in paragraph (2), by striking “quantity of sugarcane” and inserting “quantity of sugar produced from sugarcane”;

(2) in paragraph (5)(C), by inserting “for sugar” before “in excess of the farm’s proportionate share”;

(3) in paragraph (7), by striking “amount of sugarcane” and inserting “amount of sugar from sugarcane”; and

(4) by striking paragraph (8) and inserting the following new paragraph:

“(8) **SEED DEFINITION.**—In this subsection, the term ‘seed’ includes only varieties of seed dedicated to the production of sugarcane from which is produced sugar for human consumption, and excludes seed of high-fiber cane varieties dedicated to other uses, as determined by the Secretary.”.

(g) **SPECIAL RULES.**—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

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the third party are affiliated.

(e) **REASSIGNMENT OF DEFICITS.**—Section 359e(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee(b)) is amended in paragraphs (1)(D) and (2)(C), by inserting “of raw cane sugar” after “imports” each place it appears.

(f) **PROVISIONS APPLICABLE TO PRODUCERS.**—Section 359f(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(c)) is amended—

(4) in paragraph (3) (as so redesignated) —

(A) in the first sentence—

(i) by striking “paragraph (1)” and inserting “paragraph (2)”; and

(ii) by inserting “sugar produced from” after “quantity of”; and

(B) in the second sentence, by striking “paragraph (7)” and inserting “paragraph (8)”;

(5) in the first sentence of paragraph (6)(C) (as so redesignated), by inserting “for sugar” before “in excess of the farm’s proportionate share”; and

(6) in paragraph (8) (as so redesignated), by inserting “sugar from” after “the amount of”.

(1) by striking paragraph (8);

(2) by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively;

(3) by inserting before paragraph (2) (as so redesignated) the following:

“(1) **DEFINITION OF SEED.**—

“(A) **IN GENERAL.**—In this subsection, the term ‘seed’ means only those varieties of seed that are dedicated to the production of sugarcane from which is produced sugar for human consumption.

“(B) **EXCLUSION.**—The term ‘seed’ does not include seed of a high-fiber cane variety dedicated to other uses, as determined by the Secretary”;

(g) **SPECIAL RULES.**—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

(1) by striking subsection (a) and inserting the following:

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### “(a) TRANSFER OF ACREAGE BASE HISTORY.—

“(1) **TRANSFER AUTHORIZED.**—For the purpose of establishing proportionate shares for sugarcane farms under section 359f(c), the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

### “(2) CONVERTED ACREAGE BASE.—

“(A) **IN GENERAL.**—Sugarcane base acreage established under section 359f(c) that has been or is converted to non-agricultural use on or after May 13, 2002, may be transferred to other land suitable for the production of sugarcane that can be delivered to a processor in a proportionate share State in accordance with this paragraph.

“(B) **NOTIFICATION.**—Not later than 90 days after the date of the enactment of the Farm, Nutrition, and Bioenergy Act of 2007, or the subsequent conversion of sugarcane base acreage to a non-agricultural use, the Secretary, acting through the Farm Service Agency, shall notify the affected landowner (or landowners) of the transferability of the applicable sugarcane base acreage.

“(C) **INITIAL TRANSFER PERIOD.**—The owner of the base attributable to the acreage at the time of the conversion shall be afforded 90 days from the date of the receipt of the notification under subparagraph (B) to transfer the base to one or more farms owned by the owner.

“(D) **GROWER OF RECORD.**—If the transfer under subparagraph (C) cannot be accomplished within the time period prescribed in such subparagraph, then the grower of record with regard to the base acreage on the date on which the acreage was converted to non-agricultural use shall be so notified, and shall be afforded 90 days from the date of the receipt of such notification to transfer the base to one or more farms operated by the grower.

“(E) **POOL DISTRIBUTION.**—If the transfers under subparagraphs (B) and (C) cannot be accomplished within the time periods prescribed therein, then the county committee for the applicable parish shall place the acreage

### “(a) TRANSFER OF ACREAGE BASE HISTORY.—

“(1) **IN GENERAL.**—For the purpose of establishing proportionate shares for sugarcane farms under section 359f(c), the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

### “(2) CONVERTED ACREAGE BASE.—

“(A) **IN GENERAL.**—Sugarcane base acreage established under section 359f(c) that has been or is converted to nonagricultural use on or after May 13, 2002, may be transferred to other land suitable for the production of sugarcane that can be delivered to a processor in a proportionate share State in accordance with this paragraph.

“(B) **NOTIFICATION.**—Not later than 90 days after the date of the enactment of this paragraph, or on the subsequent conversion of any sugarcane base acreage to a nonagricultural use, the Administrator of the Farm Service Agency shall notify the 1 or more affected landowners of the transferability of the applicable sugarcane acreage base.

“(C) **INITIAL TRANSFER PERIOD.**—Not later than the end of the 90-day period beginning on the date of receipt of the notification under subparagraph (B), the owner of the base attributable to the acreage at the time of the conversion may transfer the base to 1 or more farms owned by the owner.

“(D) **GROWER OF RECORD.**—If a transfer under subparagraph (C) cannot be accomplished during the period specified in that subparagraph, the grower of record with regard to the acreage base on the date on which the acreage was converted to nonagricultural use shall—

“(i) be notified; and

“(ii) have 90 days from the date of the receipt of the notification to transfer the base to 1 or more farms operated by the grower.

### “(E) POOL DISTRIBUTION.—

“(i) **IN GENERAL.**—If transfers under subparagraphs (B) and (C) cannot be accomplished during the periods specified in those



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base in a pool for possible assignment to other farms. After providing reasonable notice to farm owners, operators, and growers of record in the parish, the county committee shall accept requests from owners, operators, and growers of record in the parish. The county committee shall assign the base to other farms in the parish that are eligible and capable of accepting such base, based on a random drawing from among the requests received from owners, operators, and growers of record with eligible farms.

“(F) **STATEWIDE REALLOCATION.**—Any base remaining unassigned after the processes in subparagraphs (A) through (E) shall be made available to the State committee for allocation among the remaining county committees in the State representing parishes with farms eligible for assignment of the base. The remaining base shall be reallocated to requesting county committees based on a random drawing. Any county committee receiving base under this subparagraph shall allocate the base to eligible farms using the process described in subparagraph (E).

“(G) **STATUS OF REASSIGNED BASE.**—Once reassigned pursuant to this paragraph, the acreage base shall remain on the farm, and will be subject to the transfer provisions of paragraph (1).”;

(2) by striking subsection (d) and inserting the following new subsection:

“(d) **TRANSFERS OF MILL ALLOCATIONS.**—

“(1) **TRANSFER AUTHORIZED.**—A producer in a proportionate share State, upon written consent from all affected crop-share owners (or the representative of the crop-share owners) of a farm may deliver sugarcane to another processing company if the additional delivery, when combined with such other processing company’s existing deliveries, does not exceed the processing capacity of the company.

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subparagraphs, the county committee of the Farm Service Agency for the applicable county shall place the acreage base in a pool for possible assignment to other farms.

“(ii) **ACCEPTANCE OF REQUESTS.**—After providing reasonable notice to farm owners, operators, and growers of record in the county, the county committee shall accept requests from owners, operators, and growers of record in the county.

“(iii) **ASSIGNMENT.**—The county committee shall assign the acreage base to other farms in the county that are eligible and capable of accepting the acreage base, based on a random drawing from among the requests received under clause (ii).

“(F) **STATEWIDE REALLOCATION.**—

“(i) **IN GENERAL.**—Any acreage base remaining unassigned after the transfers and processes described in subparagraphs (A) through (E) shall be made available to the State committee of the Farm Service Agency for allocation among the remaining county committees in the State representing counties with farms eligible for assignment of the base, based on a random drawing.

“(ii) **ALLOCATION.**—Any county committee receiving acreage base under this subparagraph shall allocate the acreage base to eligible farms using the process described in subparagraph (E).

“(G) **STATUS OF REASSIGNED BASE.**—After acreage base has been reassigned in accordance with this subparagraph, the acreage base shall—

“(i) remain on the farm; and

“(ii) be subject to the transfer provisions of paragraph (1).”;

(2) in subsection (d) —

(A) in paragraph (1) —

(i) by inserting “affected” before “crop-share owners” each place it appears; and

(ii) by striking “, and from the processing company holding the applicable allocation for such shares,”; and

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“(2) **ALLOCATION ADJUSTMENT.**—Notwithstanding section 359d, the Secretary shall adjust the allocations of each of such processing companies affected by a transfer under paragraph (1) to reflect the change in deliveries, based on—

“(A) the number of acres of sugarcane base being transferred; and

“(B) the pro-rata amount of allocation at the processing company holding the applicable allocation that equals the grower’s contribution to the processing company’s allocation for the sugarcane base acres being transferred.”.

(h) **APPEALS.**—Section 359i of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii) is amended—

(1) in subsection (a), by inserting “or 359g(d)” after “359f”; and

(2) by striking subsection (c).

(i) **ADMINISTRATION OF TARIFF RATE QUOTAS.**—The Agricultural Adjustment Act of 1938 is amended by striking section 359k (7 U.S.C. 1359kk) and inserting the following new section:

“**SEC. 359k. ADMINISTRATION OF TARIFF RATE QUOTAS.**

“(a) **ESTABLISHMENT.**—Notwithstanding any other provision of law, at the beginning of the quota year, the Secretary shall establish the tariff-rate quotas for raw cane sugar and refined sugars at the minimum necessary to comply with obligations under international trade agreements that have been approved by the Congress. This subsection shall not apply to specialty sugar.

“(b) **ADJUSTMENT.**—

“(1) **BEFORE APRIL 1.**—

“(A) **INITIAL ADJUSTMENT REQUIRED.**—Before April 1 of a fiscal year, in the event that there is an emergency shortage of sugar in the United States market that is caused by war, floods, hurricanes, or other

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(B) in paragraph (2), by striking “based on” and all that follows through the end of subparagraph (B) and inserting “based on—

“(A) the number of acres of sugarcane base being transferred; and

“(B) the pro rata amount of allocation at the processing company holding the applicable allocation that equals the contribution of the grower to allocation of the processing company for the sugarcane acreage base being transferred.”.

(h) **APPEALS.**—Section 359i of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii) is amended—

(1) in subsection (a), by inserting “or 359g(d)” after “359f” and

(2) by striking subsection (c).

(i) **REALLOCATING SUGAR QUOTA IMPORT SHORTFALLS.**—Section 359k of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359kk) is repealed.

(j) **ADMINISTRATION OF TARIFF RATE QUOTAS.**—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) (as amended by subsection (i)) is amended by adding at the end the following:

“**SEC. 359k. ADMINISTRATION OF TARIFF RATE QUOTAS.**

“(a) **ESTABLISHMENT.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2) and notwithstanding any other provision of law, at the beginning of the quota year, the Secretary shall establish the tariff-rate quotas for raw cane sugar and refined sugars at the minimum level necessary to comply with obligations under international trade agreements that have been approved by Congress.

“(2) **EXCEPTION.**—Paragraph (1) shall not apply to specialty sugar.

“(b) **ADJUSTMENT.**—

“(1) **BEFORE APRIL 1.**—Before April 1 of each fiscal year, if there is an emergency shortage of sugar in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event as determined by the Secretary—

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natural disaster, or other similar event, the Secretary shall take action to increase supply as provided under sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports.

“(B) **ADDITIONAL ADJUSTMENT.**—If, after adjustment under subparagraph (A), there is still a shortage of sugar in the United States market, and marketings of domestic sugar have been maximized, the Secretary may increase the tariff-rate quota for refined sugars sufficient to accommodate the supply increase, if such further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

“(2) **ON OR AFTER APRIL 1.**—

“(A) **INITIAL ADJUSTMENT AUTHORIZED.**—On or after April 1 of a fiscal year, the Secretary may take action to increase supply as provided under sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports.

“(B) **ADDITIONAL ADJUSTMENT.**—If, after adjustment under subparagraph (A), there is still a shortage of sugar in the United States market, and marketings of domestic sugar have been maximized, the Secretary may increase the tariff-rate quota for raw cane sugar if such further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

“(c) **ORDERLY SHIPPING PATTERNS FOR MAJOR SUPPLIERS.**—

“(1) **IN GENERAL.**—The Secretary of Agriculture shall establish orderly shipping patterns for major suppliers of sugar to the United States under the tariff rate quotas in accordance with this subsection.

“(2) **VERY LARGE MAJOR SUPPLIERS.**—If a country holds quota allocations of at least 100,000 metric tons of sugar, the Secretary shall allow the country to export up to 25 percent of the country’s quota allocation to the United States in each calendar quarter. Sugar permitted to enter into the United States in a calendar quarter, but not actually entered in that quarter, may be entered into the United States at any time during the remainder of the fiscal year.

“(3) **LARGE MAJOR SUPPLIERS.**—For countries holding quota allocations of

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“(A) the Secretary shall take action to increase the supply of sugar in accordance with sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

“(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, the Secretary may increase the tariff-rate quota for refined sugars sufficient to accommodate the supply increase, if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

“(2) **ON OR AFTER APRIL 1.**—On or after April 1 of each fiscal year—

“(A) the Secretary may take action to increase the supply of sugar in accordance with sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

“(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, the Secretary may increase the tariff-rate quota for raw cane sugar if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).”.

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<p>more than 45,000 metric tons of sugar, but less than 100,000 metric tons of sugar, the Secretary shall require that the country may ship not more than 50 percent of the country's quota sugar to the United States in the first six months of the year.”.</p> <p>(j) <b>EFFECTIVE DATE.</b>—The Agricultural Adjustment Act of 1938 is amended by inserting after section 359k (7 U.S.C. 1359kk) the following new section:</p> <p><b>“SEC. 359L. EFFECTIVE PERIOD.</b></p> <p>“This part shall be effective only for the 2008 through 2012 crop years for sugar.”.</p> <p>(k) <b>TRANSITION.</b>—The Secretary of Agriculture shall administer flexible marketing allotments for sugar for the 2007 crop year for sugar on the terms and conditions provided in part VII of title III of the Agricultural Adjustment Act of 1938, as in effect on the day before the date of the enactment of this Act.</p>	<p>(k) <b>PERIOD OF EFFECTIVENESS.</b>—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) (as amended by subsection (j)) is amended by adding at the end the following:</p> <p><b>“SEC. 359I. PERRIOD OF EFFECTIVENESS.”</b></p> <p>“(a) <b>IN GENERAL.</b>—This part shall be effective only for the 2008 through 2012 crop years for sugar.</p> <p>“(b) <b>TRANSITION.</b>—The Secretary shall administer flexible marketing allotments for sugar for the 2007 crop year for sugar on the terms and conditions provided in this part as in effect on the day before the date of enactment of this section.”.</p>
	<p><b>SEC. 1502. STORAGE FACILITY LOANS.</b></p> <p>Section 1402(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7971(c)) is amended—</p> <p>(1) in paragraph (1), by striking “and” at the end;</p> <p>(2) by redesignating paragraph (2) as paragraph (3);</p> <p>(3) by inserting after paragraph (1) the following:</p> <p>“(2) not include any penalty for prepayment”; and</p> <p>(4) in paragraph (3) (as redesignated by paragraph (2)), by inserting “other” after “on such”.</p>
	<p><b>SEC. 1503. COMMODITY CREDIT CORPORATION STORAGE PAYMENTS.</b></p> <p>Subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281 et seq.) is amended by adding at the end the following:</p> <p><b>“SEC. 167. COMMODITY CREDIT CORPORATION STORAGE PAYMENTS.</b></p> <p>“(a) <b>INITIAL CROP YEARS.</b>—Notwithstanding any other provision of law, for each of the 2008 through 2011 crop years, the Commodity Credit Corporation shall establish rates for the</p>

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	<p>storage of forfeited sugar in an amount that is not less than—</p> <p>“(1) in the case of refined sugar, 15 cents per hundredweight of refined sugar per month; and</p> <p>“(2) in the case of raw cane sugar, 10 cents per hundredweight of raw cane sugar per month.</p> <p>“(b) <b>SUBSEQUENT CROP YEARS.</b>—For each of the 2012 and subsequent crop years, the Commodity Credit Corporation shall establish rates for the storage of forfeited sugar in the same manner as was used on the day before the date of enactment of this section.”.</p>
	<p><b>SEC. 1505. SENSE OF THE SENATE REGARDING NAFTA SUGAR COORDINATION.</b></p> <p>It is the sense of the Senate that in order to further strengthen the operations of the North American Free Trade Agreement—</p> <p>(1) the United States Government and the Government of Mexico should coordinate the operation of their respective sugar policies, to the fullest extent consistent with the international obligations of the United States; and</p> <p>(2) the United States Government should consult with the Government of Mexico on policies to avoid disruptions of the United States and Mexican sweetener markets in order to maximize the benefits of sugar policies for growers, processors, and consumers of sugar in the United States and Mexico, while supporting the interests of corn growers, corn refiners, and sweetener users in both markets.</p>
<p><b>Subtitle D—Dairy-Related Provisions</b></p>	<p><b>Subtitle D—Dairy</b></p>
<p><b>SEC. 1401. DAIRY PRODUCT PRICE SUPPORT PROGRAM.</b></p> <p>(a) <b>SUPPORT ACTIVITIES.</b>—During the period beginning on January 1, 2008, through December 31, 2012, the Secretary of Agriculture shall support the price of cheddar cheese, butter, and nonfat dry milk through the purchase of such products made from milk produced in the United States.</p> <p>(b) <b>PURCHASE PRICE.</b>—To carry out subsection (a) during the period specified in such subsection, the Secretary shall purchase—</p> <p>(1) cheddar cheese in blocks at not less than \$1.13 per pound;</p>	<p><b>SEC. 1601. DAIRY PRODUCT PRICE SUPPORT PROGRAM.</b></p> <p>(a) <b>SUPPORT ACTIVITIES.</b>—During the period beginning on January 1, 2008, and ending on December 31, 2012, the Secretary shall support the price of cheddar cheese, butter, and nonfat dry milk through the purchase of such products made from milk produced in the United States.</p> <p>(b) <b>PURCHASE PRICE.</b>—To carry out subsection (a), the Secretary shall purchase cheddar cheese, butter, and nonfat dry milk at prices that are equivalent to—</p> <p>(1) in the case of cheddar cheese--</p> <p>(A) in blocks, not less than \$1.13 per pound;</p>

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- (2) cheddar cheese in barrels at not less than \$1.10 per pound;
- (3) butter at not less than \$1.05 per pound; and
- (4) nonfat dry milk at not less than \$0.80 per pound.

**(c) TEMPORARY PRICE ADJUSTMENT TO AVOID EXCESS INVENTORIES.—**

(1) **ADJUSTMENTS AUTHORIZED.**—The Secretary may adjust the minimum purchase prices established under subsection (b) only as permitted under this subsection.

(2) **CHEESE INVENTORIES IN EXCESS OF 200 MILLION POUNDS.**—If net removals for a period of 12 consecutive months exceed 200 million pounds of cheese, but do not exceed 400 million pounds, the Secretary may reduce the purchase prices under paragraphs (1) and (2) of subsection (b) during the immediately following month by not more than 10 cents per pound.

(3) **CHEESE INVENTORIES IN EXCESS OF 400 MILLION POUNDS.**—If net removals for a period of 12 consecutive months exceed 400 million pounds of cheese, the Secretary may reduce the purchase prices under paragraphs (1) and (2) of subsection (b) during the immediately following month by not more than 20 cents per pound.

(4) **BUTTER INVENTORIES IN EXCESS OF 450 MILLION POUNDS.**—If net removals for a period of 12 consecutive months exceed 450 million pounds of butter, but do not exceed 650 million pounds, the Secretary may reduce the purchase price under subsection (b)(3) during the immediately following month by not more than 10 cents per pound.

(5) **BUTTER INVENTORIES IN EXCESS OF 650 MILLION POUNDS.**—If net removals for a period of 12 consecutive months exceed 650 million pounds of butter, the Secretary may reduce the purchase price under subsection (b)(3) during the immediately following month by not more than 20 cents per pound.

(6) **NONFAT DRY MILK INVENTORIES IN EXCESS OF 600 MILLION POUNDS.**—If net removals for a period of 12 consecutive months exceed 600 million pounds of nonfat dry milk, but do not exceed 800 million pounds, the Secretary may reduce the purchase price under subsection (b)(4) during the immediately following month by not more than 5 cents per pound.

(7) **NONFAT DRY MILK INVENTORIES IN EXCESS OF 800 MILLION POUNDS.**—If net removals for a period of 12 consecutive months exceed 800 million pounds

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- (B) in barrels, not less than \$1.10 per pound;
- (2) in the case of butter, not less than \$1.05 per pound; and
- (3) in the case of nonfat dry milk, not less than \$0.80 per pound.

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of nonfat dry milk, the Secretary may reduce the purchase price under subsection (b)(4) during the immediately following month by not more than 10 cents per pound.

(d) **UNIFORM PURCHASE PRICE.**—The prices that the Secretary pays for cheese, butter, or nonfat dry milk, respectively, under subsection (a) shall be uniform for all regions of the United States.

(e) **SALES FROM INVENTORIES.**—In the case of each commodity specified in subsection (b) that is available for unrestricted use in inventories of the Commodity Credit Corporation, the Secretary may sell the commodity at the market prices prevailing for that commodity at the time of sale, except that the sale price may not be less than 110 percent of the minimum purchase price specified in subsection (b) for that commodity.

(f) **NET REMOVALS DEFINED.**—In this section, the term “net removals” means—

(1) the sum of the quantity of a product described in subsection (a) purchased by the Commodity Credit Corporation under this section and the quantity of such product exported under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14); less

(2) the amount of such product sold for unrestricted use by the Commodity Credit Corporation.

(g) **COMMODITY CREDIT CORPORATION.**—The Secretary shall use the funds of the Commodity Credit Corporation to carry out this section.

## SEC. 1402. DAIRY FORWARD PRICING PROGRAM.

(a) **PROGRAM REQUIRED.**—The Secretary of Agriculture shall establish a program

(c) **UNIFORM PURCHASE PRICE.**—The prices that the Secretary pays for cheese, butter, or nonfat dry milk under this section shall be uniform for all regions of the United States.

(d) **SALES FROM INVENTORIES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), in the case of each commodity specified in subsection (b) that is available for unrestricted use in inventories of the Commodity Credit Corporation, the Secretary may sell the commodity at the market prices prevailing for that commodity at the time of sale.

(2) **MINIMUM AMOUNT.**—The sale price described in paragraph (1) may not be less than 110 percent of the minimum purchase price specified in subsection (b) for that commodity.

## SEC. 1606. DAIRY FORWARD PRICING PROGRAM.

(a) **IN GENERAL.**—Section 23 of the Agricultural Adjustment Act (7 U.S.C. 627), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in the section heading, by striking “PILOT”;

(2) by striking subsection (a) and inserting the following:

“(a) **PROGRAM REQUIRED.**—The Secretary of Agriculture shall establish a program

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under which milk producers and cooperative associations of producers are authorized to voluntarily enter into forward price contracts with milk handlers.

(b) **MINIMUM MILK PRICE REQUIREMENTS.**—Payments made by milk handlers to milk producers and cooperative associations of producers, and prices received by milk producers and cooperative associations, in accordance with the terms of a forward price contract authorized by subsection (a), shall be deemed to satisfy—

(1) all uniform and minimum milk price requirements of paragraphs (B) and (F) of subsection (5) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 627), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) the total payment requirement of paragraph (C) of such subsection.

(c) **MILK COVERED BY PROGRAM.**—

(1) **COVERED MILK.**—The program shall apply only with respect to the marketing of federally regulated milk that—

(A) is not classified as Class I milk or otherwise intended for fluid use; and

(B) is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk.

(2) **RELATION TO CLASS I MILK.**—To assist milk handlers in complying with the limitation in paragraph (1)(A) without having to segregate or otherwise individually track the source and disposition of milk, a milk handler may allocate milk receipts from producers, cooperatives, and other sources that are not subject to a forward contract to satisfy the handler’s obligations with regard to Class I milk usage.

(d) **VOLUNTARY PROGRAM.**—A milk handler may not require participation in a forward pricing contract as a condition of the handler receiving milk from a producer or cooperative association of producers, and such producer or cooperative association may continue to have their milk priced under the order’s minimum payment provisions. The Secretary shall investigate complaints made by producers or cooperative associations of coercion by handlers to enter into forward contracts, and if the Secretary finds evidence of such coercion, the Secretary shall take appropriate action.

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under which milk producers and cooperative associations of producers are authorized to voluntarily enter into forward price contracts with milk handlers.”;

(3) in subsection (c) —

(A) in the subsection heading, by striking “PILOT”; and

(B) in paragraph (1), by striking “pilot”;

(4) by striking subsections (d) and (e); and

(5) by adding at the end the following:

“(d) **VOLUNTARY PROGRAM.**—

“(1) **IN GENERAL.**—A milk handler may not require participation in a forward price contract as a condition of the handler receiving milk from a producer or cooperative association of producers.

“(2) **EFFECT OF PARTICIPATION.**—A producer or cooperative association that does not enter into a forward price contract may continue to have milk priced under the minimum payment provisions of the applicable milk marketing order.



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<p>(e) <b>DURATION.</b>—No forward price contract may be entered into under this program after September 30, 2012, and no forward contract entered into under the program may extend beyond September 30, 2015.</p>	<p>“(3) <b>COMPLAINTS.</b>—The Secretary shall—</p> <p>“(A) investigate complaints made by producers or cooperative associations of coercion by handlers to enter into forward price contracts; and</p> <p>“(B) if the Secretary finds evidence of coercion, take appropriate action.</p> <p>“(e) <b>DURATION.</b>—No forward price contract under this section may—</p> <p>“(1) be entered into after September 30, 2012; or</p> <p>“(2) may extend beyond September 30, 2015.”.</p> <p>(b) <b>CONFORMING AMENDMENTS.</b>—Section 23 of the Agricultural Adjustment Act (7 U.S.C. 627), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking “cooperatives” each place it appears in subsections (b) and (c)(2) and inserting “cooperative associations of producers”.</p>
<p><b>SEC. 1403. DAIRY EXPORT INCENTIVE PROGRAM.</b></p> <p>(a) <b>EXTENSION.</b>—Subsection (a) of section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended by striking “2007” and inserting “2012”.</p> <p>(b) <b>COMPLIANCE WITH TRADE AGREEMENTS.</b>—Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended—</p> <p>(1) in subsection (c), by striking paragraph (3) and inserting the following new paragraph:</p> <p>“(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States under the Uruguay Round Agreements approved under section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511) is exported under the program each year (minus the volume sold under section 1163 of this Act (Public Law 99–198; 7 U.S.C. 1731 note) during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value set forth in subsection (f); and”;</p> <p>(2) in subsection (f), by striking paragraph (1) and inserting the following new paragraph:</p> <p>“(1) <b>FUNDS AND COMMODITIES.</b>—Except as provided in paragraph (2), the Commodity Credit Corporation shall in each year use money and commodities</p>	<p><b>SEC. 1603. DAIRY EXPORT INCENTIVE AND DAIRY INDEMNITY PROGRAMS.</b></p> <p>(a) <b>DAIRY EXPORT INCENTIVE PROGRAM.</b>—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a-14(a)) is amended by striking “2007” and inserting “2012”.</p>

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for the program under this section in the maximum amount consistent with the obligations of the United States under the Uruguay Round Agreements approved under section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511), minus the amount expended under section 1163 of this Act (Public Law 99–198; 7 U.S.C. 1731 note) during that year.”.

### SEC. 1404. REVISION OF FEDERAL MARKETING ORDER AMENDMENT PROCEDURES.

Subsection (17) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended to read as follows:

“(17) **PROVISIONS APPLICABLE TO AMENDMENTS.**—

“(A) **APPLICABILITY TO AMENDMENTS.**—The provisions of this section and section 8d, applicable to orders shall be applicable to amendments to orders.

“(B) **ADVANCE NOTICE OF HEARING.**—Notice of a hearing upon a proposed amendment to any order issued pursuant to this section shall be given not less than 3

### SEC. 1605. REVISION OF FEDERAL MARKETING ORDER AMENDMENT PROCEDURES.

Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking subsection (17) and inserting the following:

“(17) **PROVISIONS APPLICABLE TO AMENDMENTS.**—

“(A) **APPLICABILITY TO AMENDMENTS.**—The provisions of this section and section 8d applicable to orders shall be applicable to amendments to orders.

“(B) **SUPPLEMENTAL RULES OF PRACTICE.**—

“(i) **IN GENERAL.**—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall issue, using informal rulemaking, supplemental rules of practice to define guidelines and timeframes for the rulemaking process relating to amendments to orders.

“(ii) **ISSUES.**—At a minimum, the supplemental rules of practice shall establish—

“(I) proposal submission requirements;

“(II) pre-hearing information session specifications;

“(III) written testimony and data request requirements;

“(IV) public participation timeframes; and

“(V) electronic document submission standards.

“(iii) **EFFECTIVE DATE.**—The supplemental rules of practice shall take effect not later than 120 days after the date of enactment of this subparagraph, as determined by the Secretary.

“(C) **HEARING TIMEFRAMES.**—

“(i) **IN GENERAL.**— Not more than 30 days after the receipt of a proposal for

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days before the date fixed for the hearing, and such notice shall be deemed to be due notice of the hearing.

“(C) **PROMPT RESPONSE TO REQUESTS FOR AMENDMENT HEARINGS.**—Not more than 30 days after receipt of a written request for an amendment hearing regarding a milk marketing order, the Secretary shall—

“(i) issue a denial of the request; or

“(ii) issue notice of the hearing, which shall begin no more than 60 days, and conclude no more than 90 days, after receipt of the request.

“(D) **SUBMISSION AND USE OF EVIDENCE.**—The proponents of any amendment proposed to be made to a milk marketing order shall file with the Secretary all testimony and other evidence in support of the amendment, in written form, at least 7 business days before the date fixed for the hearing. The Secretary shall make such written testimony and other evidence available to interested members of the public. Subject to any evidentiary objections and cross examination of submitting witness, the written testimony and evidence shall be entered into evidence without being read at the hearing.

“(E) **ISSUANCE OF DECISION.**—The Secretary shall issue a recommended decision on a proposed amendment to a milk marketing order not later than 90 days after the date set by the Administrative Law Judge for the submission of post-hearing proposed findings and conclusions and written arguments or briefs. The final decision shall be issued not later than 60 days after the date on which the recommended decision was issued.

“(F) **AVOIDING DUPLICATION.**—The Secretary shall not be required to call a hearing on any amendment proposed to be made to a milk marketing order in response to an

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an amendment hearing regarding a milk marketing order, the Secretary shall—

“(I) issue a notice providing an action plan and expected timeframes for completion of the hearing not more than 180 days after the date of the issuance of the notice;

“(II)(aa) issue a request for additional information to be used by the Secretary in making a determination regarding the proposal; and

“(bb) if the additional information is not provided to the Secretary within the timeframe requested by the Secretary, issue a denial of the request; or

“(III) issue a denial of the request.

“(ii) **NOTICE.**— A notice issued under clause (i)(I) shall be individualized for each proceeding and take into consideration—

“(I) the number of orders affected;

“(II) the complexity of issues involved; and

“(III) the extent of the analyses required by applicable Executive orders (including Executive orders relating to civil rights, regulatory flexibility, and economic impact).

“(iii) **RECOMMENDED DECISIONS.**—A recommended decision on a proposed amendment to an order shall be issued not later than 90 days after the deadline established after the hearing for the submission of post-hearing briefs, unless otherwise provided in the initial notice issued under clause (i)(I).

“(iv) **FINAL DECISIONS.**—A final decision on a proposed amendment to an order shall be issued not later than 60 days after the deadline for submission of comments and exceptions to the recommended decision issued under clause (ii), unless otherwise provided in the initial notice issued under clause (i)(I).

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application for a hearing on such proposed amendment if the application requesting the hearing is received by the Secretary within 90 days after the date on which the Secretary has announced the decision on a previously proposed amendment to that order and the two proposed amendments are essentially the same.”.

“(D) **INDUSTRY ASSESSMENTS.**—If the Secretary determines it is necessary to improve or expedite rulemaking under this subsection, the Secretary may impose an assessment on the affected industry to supplement appropriated funds for the procurement of service providers, such as court reporters.

“(E) **USE OF INFORMAL RULEMAKING.**—The Secretary may use rulemaking under section 553 of title 5, United States Code, to amend orders, other than provisions of orders that directly affecting milk prices.

“(F) **MONTHLY FEED AND FUEL COSTS FOR MAKE ALLOWANCES.**—As part of any hearing to adjust make allowances under marketing orders, the Secretary shall—

“(i) determine the average monthly prices of feed and fuel incurred by dairy producers in the relevant marketing area;

“(ii) consider the most recent monthly feed and fuel price data available; and

“(iii) consider those prices in determining whether or not to adjust make allowances.”.

### **SEC. 1405. DAIRY INDEMNITY PROGRAM.**

Section 3 of Public Law 90–484 (7 U.S.C. 4501) is amended by striking “2007” and inserting “2012”.

### **SEC. 1603. DAIRY EXPORT INCENTIVE AND DAIRY INDEMNITY PROGRAMS.**

(b) **DAIRY INDEMNITY PROGRAM.**—Section 3 of Public Law 90-484 (7 U.S.C. 4501) is amended by striking “2007” and inserting “2012”.

### **SEC. 1406. EXTENSION OF MILK INCOME LOSS CONTRACT PROGRAM.**

Section 1502(c)(3)(B) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982(c)(3)(B)), as amended by section 9006(a) of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28, 121 Stat. 217), is amended by striking “2007” and inserting “2012”.

### **SEC. 1602. NATIONAL DAIRY MARKET LOSS PAYMENTS.**

(a) **DEFINITIONS.**—In this section:

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

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

(3) **FEDERAL MILK MARKETING ORDER.**—The term “Federal milk marketing order” means an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C.

608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

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

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

(A) shares in the risk of producing milk; and

(B) makes contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of the operation.

(b) **PAYMENTS.** —The Secretary shall offer to enter into contracts with producers on a dairy farm located in a participating State under which the producers receive payments on eligible production.

(c) **AMOUNT.**—Payments to a producer under this section shall be calculated by multiplying (as determined by the Secretary)--

(1) the payment quantity for the producer during the applicable month established under subsection (d);

(2) the amount equal to—

(A) \$16.94 per hundredweight; less

(B) the Class I milk price per hundredweight in Boston under the applicable Federal milk marketing order; by

(3)(A) for the period beginning October 1, 2007, and ending September 30, 2008, 34 percent;

(B) for the period beginning October 1, 2008, and ending August 31, 2012, 45 percent; and

(C) for the period beginning September 1, 2012, and thereafter, 34 percent.

(d) **PAYMENT QUANTITY.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the payment quantity for a producer during the applicable month under this section shall be equal to the quantity of eligible production marketed by the producer during the month.

**(2) LIMITATION.—**

**(A) IN GENERAL.—**The payment quantity for all producers on a single dairy operation for which the producers receive payments under subsection (b) shall not exceed—

(i) for the period beginning October 1, 2007, and ending September 30, 2008, 2,400,000 pounds;

(ii) for the period beginning October 1, 2008, and ending August 31, 2012, 4,150,000 pounds; and

(iii) effective beginning September 1, 2012, 2,400,000 pounds.

**(B) STANDARDS.—**For purposes of determining whether producers are producers on separate dairy operations or a single dairy operation, the Secretary shall apply the same standards as were applied in implementing the dairy program under section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-387; 114 Stat. 1549A-50).

**(3) RECONSTITUTION.—**The Secretary shall ensure that a producer does not reconstitute a dairy operation for the sole purpose of receiving additional payments under this section.

**(e) PAYMENTS.—**A payment under a contract under this section shall be made on a monthly basis not later than 60 days after the last day of the month for which the payment is made.

**(f) SIGNUP.—**The Secretary shall offer to enter into contracts under this section during the period beginning on the date that is 90 days after the date of enactment of this Act and ending on September 30, 2012.

**(g) DURATION OF CONTRACT.—**

**(1) IN GENERAL.—**Except as provided in paragraph (2), any contract entered into by producers on a dairy farm under this section shall cover eligible production marketed by the producers on the dairy farm during the period starting with the first day of month the producers on the dairy farm enter into the contract and ending on September 30, 2012.

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

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

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

## SEC. 1407. DAIRY PROMOTION AND RESEARCH PROGRAM.

(a) **EXTENSION OF PROMOTION AUTHORITY.**—Section 113(e)(2) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)(2)) is amended by striking “2007” and inserting “2012”.

(b) **DEFINITION OF UNITED STATES FOR PROMOTION PROGRAM.**—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

(1) by striking subsection (l) and inserting the following new subsection:

“(l) the term ‘United States’, when used in a geographical sense, means all of the States, the District of Columbia, and the Commonwealth of Puerto Rico;” and

(2) in subsection (m), by striking “(as defined in subsection (l))”.

(c) **DEFINITION OF UNITED STATES FOR RESEARCH PROGRAM.**—Section 130 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4531) is amended by striking paragraph (12) and inserting the following new paragraph:

“(12) the term ‘United States’, when used in a geographical sense, means all of the States, the District of Columbia, and the Commonwealth of Puerto Rico.”.

(d) **REFUND OF ASSESSMENTS ON IMPORTED DAIRY PRODUCTS.**—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended by adding at the end the following:

“(7) **REFUND OF ASSESSMENTS ON CERTAIN IMPORTED PRODUCTS.**—

“(A) **IN GENERAL.**—An importer is entitled to a refund of any assessment paid under this subsection on imported dairy products imported under a contract entered into prior to July 26, 2007.

“(B) **EXPIRATION.**—Refunds under paragraph (A) shall expire one year after the date of the enactment of the Farm, Nutrition, and Bioenergy Act of 2007.”.

## SEC. 1604. FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.

Section 113(e)(2) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)(2)) is amended by striking “2007” and inserting “2012”.

## SEC. 1408. REPORT ON DEPARTMENT OF AGRICULTURE REPORTING PROCEDURES FOR

## SEC. 1607. REPORT ON DEPARTMENT OF AGRICULTURE REPORTING PROCEDURES FOR

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## NONFAT DRY MILK.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit to Congress a report regarding Department of Agriculture reporting procedures for nonfat dry milk and the impact of these procedures on Federal milk marketing order minimum prices during the period beginning on July 1, 2006, and ending on the date of the enactment of this Act.

## NONFAT DRY MILK.

Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding Department of Agriculture reporting procedures for nonfat dry milk and the impact of the procedures on Federal milk marketing order minimum prices during the period beginning on July 1, 2006, and ending on the date of the enactment of this Act.

## SEC. 1409. FEDERAL MILK MARKETING ORDER REVIEW COMMISSION.

(a) **ESTABLISHMENT.**—Subject to the availability of appropriations to carry out this section, the Secretary of Agriculture shall establish a commission to be known as the “Federal Milk Marketing Order Review Commission”, in this section referred to as the “commission”, which shall conduct a comprehensive review and evaluation of—

- (1) the current Federal milk marketing order system; and
- (2) non-Federal milk marketing order systems.

(b) **ELEMENTS OF REVIEW AND EVALUATION.**—As part of the review and evaluation under subsection (a), the commission shall consider legislative and regulatory options for—

- (1) ensuring that the competitiveness of dairy products with other competing products in the marketplace is preserved and enhanced;

## SEC. 1608. FEDERAL MILK MARKETING ORDER REVIEW COMMISSION.

(a) **DEFINITION OF ASCARR INSTITUTION.** —In this section:

(1) **IN GENERAL.**—The term “ASCARR Institution” means a public college or university offering a baccalaureate or higher degree in the study of agriculture.

(2) **EXCLUSIONS.**—The term “ASCARR Institution” does not include an institution eligible to receive funds under—

(A) the Act of July 2, 1862 (commonly known as the “First Morrill Act”) (7 U.S.C. 301 et seq.);

(B) the Act of August 30, 1890 (commonly known as the “Second Morrill Act”) (7 U.S.C. 321 et seq.); or

(C) the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103-382; 7 U.S.C. 301 note).

(b) **ESTABLISHMENT.**—Subject to the availability of funds appropriated to carry out this section, the Secretary shall establish a commission to be known as the “Federal Milk Marketing Order Review Commission” (referred to in this section as the “Commission”), which shall conduct a comprehensive review and evaluation of—

- (1) the Federal milk marketing order system in effect on the date of enactment of this Act; and
- (2) non-Federal milk marketing order systems.

(c) **ELEMENTS OF REVIEW AND EVALUATION.**—As part of the review and evaluation under subsection (b), the Commission shall consider legislative and regulatory options for—

- (1) ensuring that the competitiveness of dairy products with other competing products in the marketplace is preserved and enhanced;



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(2) enhancing the competitiveness of American dairy producers in world markets;

(3) increasing the responsiveness of the Federal milk marketing order system to market forces;

(4) streamlining and expediting the process by which amendments to Federal milk market orders are adopted;

(5) simplifying the Federal milk marketing order system;

(6) evaluating whether the Federal milk marketing order system, established during the Great Depression, continues to serve the interests of the public, dairy processors, and dairy farmers;

(7) evaluating whether Federal milk marketing orders are operating in a manner to minimize costs to taxpayers and consumers; and

(8) evaluating the nutritional composition of milk, including the potential benefits and costs of adjusting the milk content standards.

**(c) MEMBERSHIP.—**

(1) **COMPOSITION.**—The commission shall consist of 18 members.

(2) **MEMBERS.**—As soon as practicable after the date on which funds are first made available to carry out this section, commission members shall be appointed as follows:

(A) Two members appointed by the Chairman of the Committee on

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(2) ensuring that dairy producers receive fair and reasonable minimum prices;

(3) enhancing the competitiveness of United States dairy producers in world markets;

(4) preventing anticompetitive behavior and ensuring that dairy markets are not prone to manipulation;

(5) increasing the responsiveness of the Federal milk marketing order system to market forces;

(6) streamlining and expediting the process by which amendments to Federal milk market orders are adopted;

(7) simplifying the Federal milk marketing order system;

(8) evaluating whether the Federal milk marketing order system, established during the Great Depression, continues to serve the interests of the public, dairy processors, and dairy producers;

(9) evaluating whether Federal milk marketing orders are operating in a manner to minimize costs to taxpayers and consumers, while still maintaining a fair price for producers;

(10) evaluating the nutritional composition of milk, including the potential benefits and costs of adjusting the milk content standards;

(11) evaluating the economic benefits to milk producers of establishing a 2-class system of classifying milk consisting of a fluid milk class and a manufacturing grade milk class, with the price of both classes determined using the component prices of butterfat, protein, and other solids; and

(12) evaluating a change in advance pricing that is used to calculate the advance price of Class II skim milk under Federal milk marketing orders using the 4-week component prices that are used to calculate prices for Class III and Class IV milk.

**(d) MEMBERSHIP.—**

(1) **COMPOSITION.**—The Commission shall consist of 18 members.

(2) **MEMBERS.**—As soon as practicable after the date on which funds are first made available to carry out this section—

(A) 2 members of the Commission shall be appointed by the Chairman of the

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Agriculture of the House of Representatives, in consultation with the ranking member of the Committee on Agriculture of the House of Representatives.

(B) Two members appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate, in consultation with the ranking member of the Committee on Agriculture, Nutrition and Forestry of the Senate.

(C) Fourteen members appointed by the Secretary of Agriculture.

(3) **SPECIAL APPOINTMENT REQUIREMENTS.**—In the case of the members to be appointed under paragraph (2)(C), the Secretary shall comply with the following requirements:

(A) At least one member shall represent a national consumer organization.

(B) At least four members shall represent land-grant universities or ASCARR institutions with accredited dairy economic programs, with two of these members being experts in the field of economics.

(C) At least one member shall represent the food and beverage retail sector.

(D) Four dairy producer and four dairy processors, appointed so as to balance geographical distribution of milk production and dairy processing, reflect all segments of dairy processing, and represent all regions of the United States equitably, including States that operate outside of a Federal milk marketing order.

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Committee on Agriculture of the House of Representatives, in consultation with the ranking member of that committee;

(B) 2 members of the Commission shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate, in consultation with the ranking member of that committee;

(C) 10 members of the Commission shall be appointed by the Secretary;

(D) 2 members of the Commission shall be appointed by the Chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the House of Representatives, in consultation with the ranking member of that subcommittee; and

(E) 2 members of the Commission shall be appointed by the Chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies of the Senate, in consultation with the ranking member of that subcommittee.

(3) **S SPECIAL APPOINTMENT REQUIREMENTS.**—In the case of members of the Commission appointed under paragraph (2)(C), the Secretary shall ensure that—

(A) at least 1 member represents a national consumer organization;

(B) at least 4 members represent land-grant colleges or universities (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) or ASCARR institutions with accredited dairy economic programs, with at least 2 of those members being experts in the field of economics;

(C) at least 1 member represents the food and beverage retail sector; and

(D) 4 dairy producers and 4 dairy processors are appointed in a manner that will—

(i) balance geographical distribution of milk production and dairy processing;

(ii) reflect all segments of dairy processing; and

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(4) **CHAIR.**—The commission shall elect one of its appointed members to serve as chairperson for the duration of the commission’s proceedings.

(5) **VACANCY.**—Any vacancy occurring before the termination of the commission shall be filled in the same manner as the original appointment.

(6) **COMPENSATION.**—Members of the commission shall serve without compensation, but shall be reimbursed by the Secretary of Agriculture from existing budget authority for necessary and reasonable expenses incurred in the performance of the duties of the commission.

(d) **REPORT.**—Not later than two years after the date of the first meeting of the commission, the commission shall submit to the Secretary of Agriculture and Congress a report setting forth the results of the review and evaluation conducted under this section, including such recommendations regarding the legislative and regulatory options considered under subsection (b) as the commission considers to be appropriate. The report findings shall reflect, to the extent practicable, a consensus opinion of the commission members, but the report may include majority and minority findings regarding those matters for which consensus was not reached.

(e) **ADVISORY NATURE.**—The commission is wholly advisory in nature, and the recommendations of the commission are non-binding.

(f) **NO EFFECT ON EXISTING PROGRAMS.**—The Secretary shall not allow the existence of the commission to impede, delay, or otherwise affect any decision making process of the Department of Agriculture, including any rulemaking procedures planned, proposed, or near completion.

(g) **ADMINISTRATIVE ASSISTANCE.**—The Secretary shall provide administrative support to the commission, and expend such funds as necessary from existing budget authority to carry out this responsibility.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

(i) **TERMINATION.**—The commission shall terminate immediately after submission of

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(iii) represent all regions of the United States equitably, including States that operate outside of a Federal milk marketing order.

(4) **CHAIR.**—The Commission shall elect 1 of the members of the Commission to serve as chairperson for the duration of the proceedings of the Commission.

(5) **VACANCY.**—Any vacancy occurring before the termination of the Commission shall be filled in the same manner as the original appointment.

(6) **COMPENSATION.**—A member of the Commission shall serve without compensation, but shall be reimbursed by the Secretary from existing budget authority for necessary and reasonable expenses incurred in the performance of the duties of the Commission.

(e) **REPORT.**—

(1) **IN GENERAL.**—Not later than 2 years after the date of the first meeting of the Commission, the Commission shall submit to Congress and the Secretary a report describing the results of the review and evaluation conducted under this section, including such recommendations regarding the legislative and regulatory options considered under subsection (c) as the Commission considers to be appropriate.

(2) **SUPPORT.**—The report findings shall reflect, to the maximum extent practicable, a consensus opinion of the Commission members, but the report may include majority and minority findings regarding those matters for which consensus was not reached.

(f) **ADVISORY NATURE.**—The Commission is wholly advisory in nature and the recommendations of the Commission are nonbinding.

(g) **NO EFFECT ON EXISTING PROGRAMS.**—The Secretary shall not allow the existence of the Commission to impede, delay, or otherwise affect any decisionmaking process of the Department of Agriculture, including any rulemaking procedures planned, proposed, or near completion.

(h) **ADMINISTRATIVE ASSISTANCE.**—The Secretary shall provide such administrative support to the Commission, and expend such funds as necessary from budget authority available to the Secretary, as is necessary to carry out this section.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

(j) **TERMINATION.**—The authority provided by this section terminates effective on the

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the report under subsection (d)	date of the submission of the report under subsection (e).
	<p style="text-align: center;"><b>SEC. 1609. MANDATORY REPORTING OF DAIRY COMMODITIES.</b></p> <p>Section 273 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b) is amended by striking subsections (a) and (b) and inserting the following:</p> <p>“(a) <b>DAILY REPORTING.</b>—</p> <p>    “(1) <b>IN GENERAL.</b>—Not later than 180 days after the enactment of the Food and Energy Security Act of 2007, the Secretary shall—</p> <p>        “(A) establish a program for mandatory daily dairy product information reporting that—</p> <p>            “(i) provides timely, accurate, and reliable market information;</p> <p>            “(ii) facilitates more informed marketing decisions; and</p> <p>            “(iii) promotes competition in the dairy product manufacturing industry; and</p> <p>        “(B) require officers or officially designated representatives of each dairy processor to report daily pricing information for relevant sales transaction involving a dairy product, as determined by the Secretary.</p> <p>    “(2) <b>PUBLICATION.</b>—The Secretary shall make the information reported under paragraph (1) available to the public not less frequently than once each reporting day, categorized by appropriate product characteristics, as determined by the Secretary.</p> <p>“(b) <b>Requirements-</b></p> <p>    “(1) <b>PRICE REPORTING.</b>—</p> <p>        “(A) <b>IN GENERAL.</b>—Subject to the conditions described in paragraph (3), on each business day of the Department of Agriculture, each dairy manufacturer shall report to the Secretary on all sales of dairy products that the dairy manufacturer made on the immediately preceding day or since the last report by the dairy manufacturer.</p> <p>        “(B) <b>REQUIREMENTS.</b>—A dairy manufacturer shall report such price, quantity, and product characteristics as the Secretary determines appropriate.</p> <p>        “(C) <b>SUBMISSION.</b>—Reports under this paragraph shall be submitted by</p>

electronic means at such time as designated by the Secretary.

“(D) **AVAILABILITY.**—The Secretary shall compile the information reported under this paragraph and make the compiled information available to the public on the same day as the information is reported.

“(2) **STORAGE REPORTING.**—

“(A) **IN GENERAL.**—The Secretary shall require each dairy manufacturer or other person storing dairy products to report, at periodic intervals determined by the Secretary, information regarding the quantities of dairy products in storage.

“(B) **AVAILABILITY.**—The Secretary shall make information described under subparagraph (A) available to the public in a timely manner.

“(3) **CONDITIONS.**—The conditions referred to in paragraph (1) are that the information required under that paragraph is required only—

“(A) with respect to those package sizes actually used to establish minimum prices for Class III or Class IV milk under a Federal milk marketing order; and

“(B) to the extent that the information is actually used to establish minimum prices for Class III or Class IV milk under a Federal milk marketing order.

“(4) **EXEMPTIONS FOR SMALL PROCESSORS.**—The daily reporting requirements of this subsection shall not apply to a processor that processes not more than 1,000,000 pounds of dairy products a year.

“(5) **PERIODIC REVIEW.**—The Secretary shall—

“(A) periodically review the information reported for products under this subsection; and

“(B) propose changes for the information required to be reported under this subsection, through the public hearing process established under the applicable Federal milk marketing order.

“(6) **ELECTRONIC REPORTING.**—To the maximum extent practicable, the Secretary shall carry out the program established under this subsection using electronic reporting technology.”.

**SEC. 1610. ADDITIONAL MANDATORY DAIRY REPORTING.**

Subsection (b)(3) of section 273 of the Agricultural Marketing Act of 1946 (7 U.S.C.

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	<p>1637b) (as redesignated by section 1609(2)) is amended—</p> <ul style="list-style-type: none"><li>(1) by striking “shall take such actions” and inserting “shall— “(A) take such actions”;</li><li>(2) in subparagraph (A) (as designated by paragraph (1)), by striking the period at the end and inserting “; and”; and</li><li>(3) by adding at the end the following: “(B) include regular audits and comparisons with other related dairy market statistics on at least a quarterly basis.”.</li></ul>
<b>Subtitle E—Administration</b>	<b>Subtitle E—Administration</b>
<p style="text-align: center;"><b>SEC. 1501. ADMINISTRATION GENERALLY.</b></p> <p>(a) <b>USE OF COMMODITY CREDIT CORPORATION.</b>—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.</p> <p>(b) <b>DETERMINATIONS BY SECRETARY.</b>—A determination made by the Secretary under this title shall be final and conclusive.</p> <p>(c) <b>REGULATIONS.</b>—</p> <ul style="list-style-type: none"><li>(1) <b>IN GENERAL.</b>—Not later than 90 days after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this title.</li><li>(2) <b>PROCEDURE.</b>—The promulgation of the regulations and administration of this title shall be made without regard to—<ul style="list-style-type: none"><li>(A) <a href="#">chapter 35</a> of title 44, United States Code (commonly known as the “Paperwork Reduction Act”);</li><li>(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and</li><li>(C) the notice and comment provisions of <a href="#">section 553</a> of title 5, United States Code.</li></ul></li></ul>	<p style="text-align: center;"><b>SEC. 1701. ADMINISTRATION GENERALLY.</b></p> <p>(a) <b>USE OF COMMODITY CREDIT CORPORATION.</b>—Except as otherwise provided in subtitles A through D and this subtitle, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out subtitles A through D and this subtitle.</p> <p>(b) <b>DETERMINATIONS BY SECRETARY.</b>—A determination made by the Secretary under this title shall be final and conclusive.</p> <p>(c) <b>REGULATIONS.</b>—</p> <ul style="list-style-type: none"><li>(1) <b>IN GENERAL.</b>—Not later than 90 days after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this title and the amendments made by this title.</li><li>(2) <b>PROCEDURE.</b>—The promulgation of the regulations and administration of this title and the amendments made by this title shall be made without regard to—<ul style="list-style-type: none"><li>(A) <a href="#">chapter 35</a> of title 44, United States Code (commonly known as the “Paperwork Reduction Act”);</li><li>(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and</li><li>(C) the notice and comment provisions of <a href="#">section 553</a> of title 5, United States Code.</li></ul></li></ul>

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

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

**(d) ADJUSTMENT AUTHORITY RELATED TO TRADE AGREEMENTS COMPLIANCE.**—

**(d) ADJUSTMENT AUTHORITY RELATED TO TRADE AGREEMENTS COMPLIANCE.**—

(1) **REQUIRED DETERMINATION; ADJUSTMENT.**—If the Secretary determines that expenditures under subtitles A through E that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act ([19 U.S.C. 3501](#))), as in effect on the date of enactment of this Act, will exceed such allowable levels for any applicable reporting period, the Secretary shall, to the maximum extent practicable, make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed such allowable levels.

(1) **REQUIRED DETERMINATION; ADJUSTMENT.**—If the Secretary determines that expenditures under subtitles A through D and this subtitle that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act ([19 U.S.C. 3501](#))) will exceed such allowable levels for any applicable reporting period, the Secretary shall, to the maximum extent practicable, make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed such allowable levels.

(2) **CONGRESSIONAL NOTIFICATION.**—Before making any adjustment under paragraph (1), the Secretary shall submit to the Committee on Agriculture of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the determination made under that paragraph and the extent of the adjustment to be made.

(2) **CONGRESSIONAL NOTIFICATION.**—Before making any adjustment under paragraph (1), the Secretary shall submit to the Committee on Agriculture of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the determination made under that paragraph and the extent of the adjustment to be made.

**(e) TREATMENT OF ADVANCE PAYMENT OPTION.**—Section 1601(d) of the Farm Security and Rural Investment Act of 2002 ([7 U.S.C. 7991\(d\)](#)) is amended—

- (1) in paragraph (1), by striking “and” at the end;
- (2) in paragraph (2), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following:

“(3) the advance payment of direct payments and counter-cyclical payments under title I of the Food and Energy Security Act of 2007.”.

**SEC. 1502. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.**

**SEC. 1702. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.**

(a) **AGRICULTURAL ADJUSTMENT ACT OF 1938.**—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 2008 through 2012 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act through December 31, 2012:

(a) **AGRICULTURAL ADJUSTMENT ACT OF 1938.**—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 2008 through 2012 crops of covered commodities and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act through December 31, 2012:

- (1) Parts II through V of subtitle B of title III ([7 U.S.C. 1326 et seq.](#)).

- (1) Parts II through V of subtitle B of title III ([7 U.S.C. 1326 et seq.](#)).

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- (2) In the case of upland cotton, section 377 (7 U.S.C. 1377).
- (3) Subtitle D of title III (7 U.S.C. 1379a et seq.).
- (4) Title IV (7 U.S.C. 1401 et seq.).

(b) **AGRICULTURAL ACT OF 1949.**—The following provisions of the Agricultural Act of 1949 shall not be applicable to the 2008 through 2012 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act and through December 31, 2012:

- (1) Section 101 (7 U.S.C. 1441).
- (2) Section 103(a) (7 U.S.C. 1444(a)).
- (3) Section 105 (7 U.S.C. 1444b).
- (4) Section 107 (7 U.S.C. 1445a).
- (5) Section 110 (7 U.S.C. 1445e).
- (6) Section 112 (7 U.S.C. 1445g).
- (7) Section 115 (7 U.S.C. 1445k).
- (8) Section 201 (7 U.S.C. 1446).
- (9) Title III (7 U.S.C. 1447 et seq.).
- (10) Title IV (7 U.S.C. 1421 et seq.), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).
- (11) Title V (7 U.S.C. 1461 et seq.).
- (12) Title VI (7 U.S.C. 1471 et seq.).

(c) **SUSPENSION OF CERTAIN QUOTA PROVISIONS.**—The joint resolution entitled “A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended”, approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 2008 through 2012.

### SEC. 1503. PAYMENT LIMITATIONS.

(a) **EXTENSION AND REVISION OF LIMITATIONS.**—

- (1) **EXTENSION.**—Sections 1001 and 1001C(a) of the Food Security Act of

- (2) In the case of upland cotton, section 377 (7 U.S.C. 1377).
- (3) Subtitle D of title III (7 U.S.C. 1379a et seq.).
- (4) Title IV (7 U.S.C. 1401 et seq.).

(b) **AGRICULTURAL ACT OF 1949.**—The following provisions of the Agricultural Act of 1949 shall not be applicable to the 2008 through 2012 crops of covered commodities and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act and through December 31, 2012:

- (1) Section 101 (7 U.S.C. 1441).
- (2) Section 103(a) (7 U.S.C. 1444(a)).
- (3) Section 105 (7 U.S.C. 1444b).
- (4) Section 107 (7 U.S.C. 1445a).
- (5) Section 110 (7 U.S.C. 1445e).
- (6) Section 112 (7 U.S.C. 1445g).
- (7) Section 115 (7 U.S.C. 1445k).
- (8) Section 201 (7 U.S.C. 1446).
- (9) Title III (7 U.S.C. 1447 et seq.).
- (10) Title IV (7 U.S.C. 1421 et seq.), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).
- (11) Title V (7 U.S.C. 1461 et seq.).
- (12) Title VI (7 U.S.C. 1471 et seq.).

(c) **SUSPENSION OF CERTAIN QUOTA PROVISIONS.**—The joint resolution entitled “A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended”, approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 2008 through 2012.

### SEC. 1703. PAYMENT LIMITATIONS.

- (a) **EXTENSION OF LIMITATIONS.**—Sections 1001 and 1001C(a) of the Food Security Act



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1985 (7 U.S.C. 1308, 1308–3(a)) are amended by striking “Farm Security and Rural Investment Act of 2002” each place it appears (other than in subsection (d)(1) of section 1001 of such Act) and inserting “Farm, Nutrition, and Bioenergy Act of 2007”.

(2) **COMBINATION OF LIMITS.**—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking subsections (b) and (c) and inserting the following new subsections:

**“(b) LIMITATION ON DIRECT AND COUNTER-CYCLICAL PAYMENTS FOR COVERED COMMODITIES (OTHER THAN PEANUTS).—**

“(1) **DIRECT PAYMENTS.**—The total amount of direct payments received, directly or indirectly, by a person or any legal entity (except a joint venture or a general partnership) in any crop year under subtitle A of title I of the Farm, Nutrition, and Bioenergy Act of 2007 for 1 or more covered commodities (except for peanuts) may not exceed \$60,000.

“(2) **COUNTER-CYCLICAL PAYMENTS.**—The total amount of counter-cyclical payments received, directly or indirectly, by a person or any legal entity (except a joint venture or a general partnership) in any crop year under subtitle A of title I of the Farm, Nutrition, and Bioenergy Act of 2007 for one or more covered commodities (except for peanuts) may not exceed \$65,000.

**“(c) LIMITATION ON DIRECT AND COUNTER-CYCLICAL PAYMENTS FOR**

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of 1985 (7 U.S.C. 1308, 1308-3(a)) are amended by striking “Farm Security and Rural Investment Act of 2002” each place it appears and inserting “Food and Energy Security Act of 2007”.

**(b) REVISION OF LIMITATIONS.—**

(1) **DEFINITIONS.**—Section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(A) in the matter preceding paragraph (1), by inserting “and section 1001A” after “section”;

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (5); and

(C) by inserting after paragraph (1) the following:

“(2) **FAMILY MEMBER.**—The term “family member” means an individual to whom a member in the farming operation is related as lineal ancestor, lineal descendant, sibling, or spouse.

*Definitions of “legal entity” and “person”; see paragraph (2) below.*

(2) **LIMITATION ON DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.**—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking subsections (b), (c) and (d) and inserting the following:

**“(b) LIMITATION ON DIRECT AND COUNTER-CYCLICAL PAYMENTS FOR COVERED COMMODITIES (OTHER THAN PEANUTS).—**

“(1) **DIRECT PAYMENTS.**—The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under part I of subtitle A of title I of the Food and Energy Security Act of 2007 for 1 or more covered commodities (except for peanuts), or average crop revenue payments determined under section 1401(b)(2) of that Act, may not exceed \$40,000.

“(2) **COUNTER-CYCLICAL PAYMENTS.**—The total amount of counter-cyclical payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under part I of subtitle A of title I of the Food and Energy Security Act of 2007 for one or more covered commodities (except for peanuts), or average crop revenue payments determined under section 1401(b)(3) of that Act, may not exceed \$60,000.

**“(c) LIMITATION ON DIRECT AND COUNTER-CYCLICAL PAYMENTS FOR**

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## PEANUTS.—

“(1) **DIRECT PAYMENTS.**—The total amount of direct payments received, directly or indirectly, by a person or any legal entity (except a joint venture or a general partnership) in any crop year under subtitle A of title I of the Farm, Nutrition, and Bioenergy Act of 2007 for peanuts may not exceed \$60,000.

“(2) **COUNTER-CYCLICAL PAYMENTS.**—The total amount of counter-cyclical payments received, directly or indirectly, by a person or any legal entity (except a joint venture or a general partnership) in any crop year under subtitle A of title I of the Farm, Nutrition, and Bioenergy Act of 2007 for peanuts may not exceed \$65,000.”.

(b) **DIRECT ATTRIBUTION.**—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(B) by inserting after paragraph (1) the following new paragraphs:

“(2) **LEGAL ENTITY.**—The term ‘legal entity’ means an entity that is created under Federal or State law and that—

“(A) owns land or an agricultural commodity; or

“(B) produces an agricultural commodity.

“(3) **PERSON.**—The term ‘person’ means a natural person, and does not include a legal entity.”;

(2) by striking subsections (d) through (e) and inserting the following new subsections:

## PEANUTS.—

“(1) **DIRECT PAYMENTS.**—The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under part III of subtitle A of title I of the Food and Energy Security Act of 2007 for peanuts, or average crop revenue payments determined under section 1401(b)(2) of that Act, may not exceed \$40,000.

“(2) **COUNTER-CYCLICAL PAYMENTS.**—The total amount of counter-cyclical payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under part III of subtitle A of title I of the Food and Energy Security Act of 2007 for peanuts, or average crop revenue payments determined under section 1401(b)(3) of that Act, may not exceed \$60,000.’.

“(d) **LIMITATION ON APPLICABILITY.**—Nothing in this section authorizes any limitation on any benefit associated with the marketing assistance loan program or the loan deficiency payment program under title I of the Food and Energy Security Act of 2007.”.

## PARAGRAPH (1)

“(3) **LEGAL ENTITY.**—The term “legal entity” means an entity that is created under Federal or State law and that—

“(A) owns land or an agricultural commodity; or

“(B) produces an agricultural commodity.

“(4) **PERSON.**—The term “person” means a natural person, and does not include a legal entity.”.

## PARAGRAPH (3)

(3) **DIRECT ATTRIBUTION.**—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking subsection (e) and redesignating subsections (f) and (g) as (g) and (h), respectively, and inserting the following:

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### “(d) **ATTRIBUTION OF PAYMENTS.**—

“(1) **IN GENERAL.**—In implementing subsections (b) and (c), the Secretary shall issue such regulations as are necessary to ensure that the total amount of payments are attributed to a person by taking into account the direct and indirect ownership interests of the person in a legal entity that is eligible to receive such payments.

“(2) **PAYMENTS TO A PERSON.**—Every payment made directly to a person shall be combined with the person’s pro rata interest in payments received by a legal entity in which the person has a direct or indirect ownership interest.

### “(3) **PAYMENTS TO A LEGAL ENTITY.**—

“(A) **IN GENERAL.**—Every payment made to a legal entity shall be attributed to those persons who have a direct or indirect ownership interest in the legal entity.

### “(B) **ATTRIBUTION OF PAYMENTS.**—

“(i) **PAYMENT LIMITS.**—Except as provided in clause (ii), payments made to a legal entity shall not exceed the amounts specified in subsections (b) and (c).

“(ii) **EXCEPTION.**—Payments made to a joint venture or a general partnership shall not exceed, for each payment specified in subsections (b) and (c), the amount determined by multiplying the maximum payment amount specified in subsections (b) and (c) by the number of persons and legal entities (other than joint ventures and general partnerships) that comprise the ownership of the joint venture or general partnership.

### “(4) **FOUR LEVELS OF ATTRIBUTION FOR EMBEDDED ENTITIES.**—

“(A) **IN GENERAL.**—Attribution of payments made to legal entities shall be traced through four levels of ownership in entities.

### “(e) **ATTRIBUTION OF PAYMENTS.**—

“(1) **IN GENERAL.**—In implementing subsections (b) and (c) and a program described in section 1001D(b)(2)(C), the Secretary shall issue such regulations as are necessary to ensure that the total amount of payments are attributed to a person by taking into account the direct and indirect ownership interests of the person in a legal entity that is eligible to receive the payments.

“(2) **PAYMENTS TO A PERSON.**—Each payment made directly to a person shall be combined with the pro rata interest of the person in payments received by a legal entity in which the person has a direct or indirect ownership interest unless the payments of the legal entity have been reduced by the pro rata share of the person.

### “(3) **PAYMENTS TO A LEGAL ENTITY.**—

“(A) **IN GENERAL.**—Each payment made to a legal entity shall be attributed to those persons who have a direct or indirect ownership interest in the legal entity unless the payment to the legal entity has been reduced by the pro rata share of the person.

### “(B) **ATTRIBUTION OF PAYMENTS.**—

“(i) **PAYMENT LIMITS.**—Except as provided in clause (ii), payments made to a legal entity shall not exceed the amounts specified in subsections (b) and (c).

“(ii) **EXCEPTION FOR JOINT VENTURES AND GENERAL PARTNERSHIPS.**—Payments made to a joint venture or a general partnership shall not exceed, for each payment specified in subsections (b) and (c), the amount determined by multiplying the maximum payment amount specified in subsections (b) and (c) by the number of persons and legal entities (other than joint ventures and general partnerships) that comprise the ownership of the joint venture or general partnership.

“(iii) **REDUCTION.**—Payments made to a legal entity shall be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any individual or legal entity that has otherwise exceeded the applicable maximum payment limitation.

### “(4) **4 LEVELS OF ATTRIBUTION FOR EMBEDDED ENTITIES.**—

“(A) **IN GENERAL.**—Attribution of payments made to legal entities shall be traced through 4 levels of ownership in legal entities.

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“(B) **FIRST LEVEL.**—Any payments made to a legal entity (a first-tier entity) that is owned in whole or in part by a person shall be attributed to the person in an amount that represents the direct ownership in the first-tier entity by the person.

“(C) **SECOND LEVEL.**—Any payments made to a first-tier entity that is owned in whole or in part by another legal entity (a second-tier entity) shall be attributed to the second-tier entity in proportion to the second-tier entity’s ownership in the first-tier entity. If the second-tier entity is owned in whole or in part by a person, the amount of the payment made to the first-tier entity shall be attributed to the person in the amount that represents the indirect ownership in the first-tier entity by the person.

“(D) **THIRD AND FOURTH LEVELS.**—The Secretary shall attribute payments at the third and fourth tiers of ownership in the same manner as specified in subparagraph (C) unless the fourth-tier of ownership is that of a fourth-tier entity and not that of a person, in which case the Secretary shall reduce the amount of the payment to be made to the first-tier entity in the amount that represents the indirect ownership in the first-tier entity by the fourth-tier entity.

“(e) **SPECIAL RULES.**—

“(1) **MINOR CHILDREN.**—Payments received by a child under the age of 18 shall be attributed to the child’s parents, except that the Secretary shall issue regulations which provide the conditions under which payments received by a child under the age of 18 will not be attributed to the child’s parents.

“(2) **MARKETING COOPERATIVES.**—Subsections (b) and (c) shall not apply to a cooperative association of producers with respect to commodities produced

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“(B) **FIRST LEVEL.**—Any payments made to a legal entity (a first-tier legal entity) that is owned in whole or in part by a person shall be attributed to the person in an amount that represents the direct ownership in the first-tier legal entity by the person.

“(C) **SECOND LEVEL.**—

“(i) **IN GENERAL.**—Any payments made to a first-tier legal entity that is owned (in whole or in part) by another legal entity (a second-tier legal entity) shall be attributed to the second-tier legal entity in proportion to the ownership of the second-tier legal entity in the first-tier legal entity.

“(ii) **OWNERSHIP BY A PERSON.**—If the second-tier legal entity is owned (in whole or in part) by a person, the amount of the payment made to the first-tier legal entity shall be attributed to the person in the amount that represents the indirect ownership in the first-tier legal entity by the person.

“(D) **THIRD AND FOURTH LEVELS.**—

“(i) **IN GENERAL.**—Except as provided in clause (ii), the Secretary shall attribute payments at the third and fourth tiers of ownership in the same manner as specified in subparagraph (C).

“(ii) **FOURTH-TIER OWNERSHIP.**—If the fourth-tier of ownership is that of a fourth-tier legal entity and not that of a person, the Secretary shall reduce the amount of the payment to be made to the first-tier legal entity in the amount that represents the indirect ownership in the first-tier legal entity by the fourth-tier legal entity.

“(f) **SPECIAL RULES.**—

“(1) **MINOR CHILDREN.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), payments received by a child under the age of 18 shall be attributed to the parents of the child.

“(B) **REGULATIONS.**—The Secretary shall issue regulations specifying the conditions under which payments received by a child under the age of 18 will not be attributed to the parents of the child.

“(2) **MARKETING COOPERATIVES.**—Subsections (b) and (c) shall not apply to a cooperative association of producers with respect to commodities produced by the

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by its members which are marketed by such association on behalf of its members but shall apply to such producers as persons.

### “(3) TRUSTS AND ESTATES.—

“(A) **IN GENERAL.**—With respect to irrevocable trusts and estates, the Secretary shall administer the provisions of this subtitle in such manner as the Secretary determines will ensure that fair and equitable treatment of the beneficiaries of such trusts and estates.

“(B) **IRREVOCABLE TRUST.**—In order for a trust to be considered an irrevocable trust, the terms of the trust agreement must not allow for modification or termination of the trust by the grantor, allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust, or provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years from the date the trust is established except in cases where the transfer is contingent on the remainder beneficiary achieving at least the age of majority or is contingent on the death of the grantor or income beneficiary.

“(C) **REVOCABLE TRUST.**—A revocable trust shall be considered to be the same person as the grantor of the trust.

### “(4) CASH RENT TENANTS.—

“(A) **DEFINITION.**—In this paragraph, the term ‘cash rent tenant’ means a person or legal entity that rents land—

“(i) for cash; or

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members of the association that are marketed by the association on behalf of the members of the association but shall apply to the producers as persons.

### “(3) TRUSTS AND ESTATES.—

“(A) **IN GENERAL.**—With respect to irrevocable trusts and estates, the Secretary shall administer this section through section 1001F in such manner as the Secretary determines will ensure the fair and equitable treatment of the beneficiaries of the trusts and estates.

### “(B) IRREVOCABLE TRUST.—

“(i) **IN GENERAL.**—In order for a trust to be considered an irrevocable trust, the terms of the trust agreement shall not--

“(I) allow for modification or termination of the trust by the grantor;

“(II) allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust; or

“(III) except as provided in clause (ii), provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years beginning on the date the trust is established.

“(ii) **EXCEPTION.**—Clause (i)(III) shall not apply in a case in which the transfer is—

“(I) contingent on the remainder beneficiary achieving at least the age of majority; or

“(II) is contingent on the death of the grantor or income beneficiary.

“(C) **REVOCABLE TRUST.**—For the purposes of this section through section 1001F, a revocable trust shall be considered to be the same person as the grantor of the trust.

### “(4) CASH RENT TENANTS.—

“(A) **DEFINITION.**—In this paragraph, the term ‘cash rent tenant’ means a person or legal entity that rents land—

“(i) for cash; or

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“(ii) for a crop share guaranteed as to the amount of the commodity to be paid in rent.

“(B) **RESTRICTION.**—A cash rent tenant who makes a significant contribution of active personal management, but not of personal labor, with respect to a farming operation is eligible to receive a payment described in subsection (b) only if the tenant makes a significant contribution of equipment used in the farming operation.

“(5) **FEDERAL AGENCIES.**—

“(A) **IN GENERAL.**—Federal agencies shall not be eligible to receive any payment described in subsection (b) or (c).

“(B) **RENTS LAND.**—A person or legal entity that rents land owned by a Federal agency may receive such payments.

“(6) **STATE AND LOCAL GOVERNMENTS.**—

“(A) **GOVERNMENTS INELIGIBLE.**—

“(i) **IN GENERAL.**—Except as provided in subparagraphs (B) and (C), State and local governments and political subdivisions and agencies of such governments, shall not be eligible to receive payments described in subsections (b) and (c).

“(ii) **TENANTS.**—A person or legal entity that rents land owned by a State or local government or a political subdivision or agency of such government, may receive payments described in subsections (b) and (c) if they otherwise meet all applicable criteria.

“(B) **EXCEPTION.**—

“(i) **IN GENERAL.**—Within the limitation described in clause (ii), a State and the political subdivisions and agencies of such governments, may receive payments described in subsections (b) and (c), if the State or a political subdivision or agency of such government—

“(I) is the producer of all crops produced on a farm; and

“(II) the proceeds from the crop production are used to maintain a public school.

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“(ii) for a crop share guaranteed as to the amount of the commodity to be paid in rent.

“(B) **RESTRICTION.**—A cash rent tenant who makes a significant contribution of active personal management, but not of personal labor, with respect to a farming operation shall be eligible to receive a payment described in subsection (b) or (c) only if the tenant makes a significant contribution of equipment to the farming operation.

“(5) **FEDERAL AGENCIES.**—

“(A) **IN GENERAL.**—A Federal agency shall not be eligible to receive any payment described in subsection (b) or (c).

“(B) **LAND RENTAL.**—A lessee of land owned by a Federal agency may receive a payment described in subsection (b) or (c) if the lessee otherwise meets all applicable criteria.

“(6) **STATE AND LOCAL GOVERNMENTS.**—

“(A) **IN GENERAL.**—Except as provided in subsection (g), a State or local government, or political subdivision or agency of the government, shall not be eligible to receive a payment described in subsection (b) or (c).

“(B) **TENANTS.**—A lessee of land owned by a State or local government, or political subdivision or agency of the government, may receive payments described in subsections (b) and (c) if the lessee otherwise meet all applicable criteria.

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“(ii) **LIMITATION.**—For each State, the total amount of payments described in subsections (b) and (c) that are received collectively by the State and all political subdivisions or agencies of such governments shall not exceed the amounts that one legal entity may receive in one year as specified in subsections (b) and (c).

“(C) **SHARE LEASES.**—A State and the political subdivisions and agencies of such governments may, without regard to the provisions of subparagraph (B), receive payments described in subsections (b) and (c) if—

“(i) the payments are received with respect to land that is share leased to a private party;

“(ii) the lease was in effect on the date of enactment of the Farm, Nutrition, and Bioenergy Act of 2007; and

“(iii) the land is used to maintain a public school.

“(7) **CHANGES IN FARMING OPERATIONS.**—In the administration of this subtitle, the Secretary may not approve any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive. The addition of a family member to a farming operation under the criteria set out in section 1001A shall be considered a bona fide and substantive change in the farming operation.

“(8) **DENIAL OF PROGRAM BENEFITS.**—

“(A) **TWO YEAR DENIAL OF PAYMENT.**—A person or legal entity shall be ineligible to receive payments specified in subsections (b) and (c) for that year, and the succeeding crop year, in which the Secretary determines that the person or entity engaged in an activity in which the primary purpose of the activity was to avoid the application of the provisions of this subtitle to the person, legal entity or any other person or legal entity.

“(7) **CHANGES IN FARMING OPERATIONS.**—

“(A) **IN GENERAL.**—In the administration of this section through section 1001F, the Secretary may not approve any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

“(B) **FAMILY MEMBERS.**—The addition of a family member to a farming operation under the criteria set out in section 1001A shall be considered a bona fide and substantive change in the farming operation.

*Paragraph “(8) DEATH OF OWNER.”; see subsection (e) below.*

(e) **DENIAL OF PROGRAM BENEFITS.**—Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308-2) is amended to read as follows:

“**SEC. 1001B. DENIAL OF PROGRAM BENEFITS.**

“(a) **2-YEAR DENIAL OF PROGRAM BENEFITS.**— A person or legal entity shall be ineligible to receive payments specified in subsections (b) and (c) of section 1001 for the crop year, and the succeeding crop year, in which the Secretary determines that the person or legal entity—

“(1) failed to comply with section 1001A(b) and adopted or participated in adopting a scheme or device to evade the application of section 1001, 1001A, or 1001C; or

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“(B) **EXTENDED INELIGIBILITY.**—If the Secretary determines that a person or legal entity, for their benefit or the benefit of any other person or legal entity, has knowingly engaged in, or aided in the creation of fraudulent documents, failed to disclose material information relevant to the administration of this subtitle requested by the Secretary, or committed other equally serious actions as identified in regulations issued by the Secretary, the Secretary may for a period not to exceed five crop years deny the issuance of payments to the person or legal entity.

“(C) **PRO RATA DENIAL.**—Payments otherwise owed to a person or legal entity covered by subparagraphs (A) or (B) shall be denied in a pro rata manner based upon the ownership interest of the person or legal entity in a farm, and payments otherwise payable to the person or legal entity who is a cash rent tenant on a farm owned or under the control of such person or legal entity shall be denied.

“(9) **DEATH OF OWNER.**—In the event of a transfer of any ownership interest in land or a commodity as the result of the death of a program participant, the new owner of such land or commodity may, if such person is otherwise eligible to participate in the applicable program, succeed to the prior owner’s contract and receive payments subject to this section without regard to the amount of payments received by the new owner. Payments made pursuant to this subsection shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.”.

“(2) intentionally concealed the interest of the person or legal entity in any farm or legal entity engaged in farming.

“(b) **EXTENDED INELIGIBILITY.**—If the Secretary determines that a person or legal entity, for the benefit of the person or legal entity or the benefit of any other person or legal entity, has knowingly engaged in, or aided in the creation of a fraudulent document, presented false information that was material and relevant to the administration of sections 1001 through 1001F, or committed other equally serious actions (as identified in regulations issued by the Secretary), the Secretary may for a period not to exceed 5 crop years deny the issuance of payments to the person or legal entity.

“(c) **PRO RATA DENIAL.**—

“(1) **IN GENERAL.**—Payments otherwise owed to a person or legal entity described in subsections (a) or (b) shall be denied in a pro rata manner based on the ownership interest of the person or legal entity in a farm.

“(2) **CASH RENT TENANT.**—Payments otherwise payable to the person or legal entity described in subsection (a) or (b) who is a cash rent tenant on a farm owned or under the control of the person or legal entity shall be denied.

“(d) **JOINT AND SEVERAL LIABILITY.**—Any member of any legal entity (including partnerships and joint ventures) determined to have knowingly participated in a scheme or device to evade, or that has the purpose of evading, sections 1001, 1001A, or 1001C shall be jointly and severally liable for any amounts that are payable to the Secretary as the result of the scheme or device (including amounts necessary to recover those amounts).

“(e) **RELEASE.**—The Secretary may partially or fully release from liability any person or legal entity who cooperates with the Secretary in enforcing sections 1001, 1001A, and 1001C, and this section.”.

“(8) **DEATH OF OWNER.**—

“(A) **IN GENERAL.**—If any ownership interest in land or a commodity is transferred as the result of the death of a program participant, the new owner of the land or commodity may, if the person is otherwise eligible to participate in the applicable program, succeed to the contract of the prior owner and receive payments subject to this section without regard to the amount of payments received by the new owner.

“(B) **LIMITATIONS ON PRIOR OWNER.**—Payments made under this paragraph shall not exceed the amount to which the previous owner was entitled to receive



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(c) **REPEAL OF THREE-ENTITY RULE.**—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308-1) is amended—

(1) in the section heading, by striking “**PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS**” and inserting “**NOTIFICATION OF INTERESTS**”; and

(2) by striking subsection (a) and inserting the following new subsection:

“(a) **NOTIFICATION OF INTERESTS.**—To facilitate administration of sections 1001 and this section, each entity or person receiving payments described in subsections (b) and (c) of section 1001 as a separate person shall provide to the Secretary of Agriculture, at such times and in such manner as prescribed by the Secretary, the name and social security number of each individual, or the name and taxpayer identification number of each entity, that holds or acquires an ownership interest in such separate person and shall provide such information regarding each entity in which such separate person holds an ownership interest.”.

(d) **AMENDMENT FOR CONSISTENCY.**—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308-1) is amended by striking subsection (b) and inserting the following new subsections:

“(b) **ACTIVELY ENGAGED.**—

“(1) **IN GENERAL.**—To be eligible to receive a payment described in subsections (b) and (c) of section 1001, a person or legal entity must be actively engaged in farming as provided in this subsection or subsection (c).

“(2) **CLASSES ACTIVELY ENGAGED.**—Except as provided in subsections (c) and (d)—

“(A) a person, including a person participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity as determined by the secretary, shall be considered to be actively engaged in farming with respect to a farm operation if—

“(i) the person makes a significant contribution (based on the total value of the farming operation) to the farming operation of—

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under the terms of the contract at the time of the death of the prior owner.”.

(c) **REPEAL OF 3-ENTITY RULE.**—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308-1) is amended—

(1) in the section heading, by striking “**PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS**” and inserting “**NOTIFICATION OF INTERESTS**”; and

(2) by striking subsection (a) and inserting the following:

“(a) **NOTIFICATION OF INTERESTS.**—To facilitate administration of section 1001 and this section, each person or legal entity receiving payments described in subsections (b) and (c) of section 1001 as a separate person or legal entity shall separately provide to the Secretary, at such times and in such manner as prescribed by the Secretary—

“(1) the name and social security number of each individual, or the name and taxpayer identification number of each legal entity, that holds or acquires an ownership interest in the separate person or legal entity; and

“(2) the name and taxpayer identification number of each legal entity in which the person or legal entity holds an ownership interest.”.

(d) **AMENDMENT FOR CONSISTENCY.**—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308-1) is amended by striking subsection (b) and inserting the following:

“(b) **ACTIVELY ENGAGED.**—

“(1) **IN GENERAL.**—To be eligible to receive a payment described in subsection (b) or (c) of section 1001, a person or legal entity shall be actively engaged in farming with respect to a farming operation as provided in this subsection or subsection (c).

“(2) **CLASSES ACTIVELY ENGAGED.**—Except as provided in subsections (c) and (d)—

“(A) a person (including a person participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity, as determined by the Secretary) shall be considered to be actively engaged in farming with respect to a farming operation if—

“(i) the person makes a significant contribution (based on the total value of the farming operation) to the farming operation of—

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“(I) capital, equipment, or land; and

“(II) personal labor or active personal management;

“(ii) the person’s share of the profits or losses from the farming operation is commensurate with the contributions of the person to the farming operation; and

“(iii) the contributions of the person are at risk;

“(B) a legal entity that is a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity determined by the Secretary, including any such entity participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar entity as determined by the Secretary shall be considered as actively engaged in farming with respect to a farming operation if—

“(i) the entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

“(ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and

“(iii) the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity;

“(C) if a legal entity that is a general partnership, joint venture, or similar entity, as determined by the Secretary, separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of paragraph (A), as applied to the entity, are met by the entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved; and

“(D) in making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by

“(I) capital, equipment, or land; and

“(II) personal labor or active personal management;

“(ii) the person's share of the profits or losses from the farming operation is commensurate with the contributions of the person to the farming operation; and

“(iii) the contributions of the person are at risk;

“(B) a legal entity that is a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity determined by the Secretary (including any such legal entity participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar legal entity as determined by the Secretary) shall be considered as actively engaged in farming with respect to a farming operation if—

“(i) the legal entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

“(ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and

“(iii) the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the legal entity, are met by the legal entity;

“(C) if a legal entity that is a general partnership, joint venture, or similar entity, as determined by the Secretary, separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the legal entity, are met by the legal entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved; and

“(D) in making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area

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farm operators in the area involved to produce program crops.

### “(c) SPECIAL CLASSES ACTIVELY ENGAGED.—

“(1) **LANDOWNER.**—A person or legal entity that is a landowner contributing the owned land to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if the landowner receives rent or income for such use of the land based on the land’s production or the operation’s operating results, and the person or legal entity meets the standard provided in clauses (ii) and (iii) of subsection (b)(2)(A).

“(2) **ADULT FAMILY MEMBER.**—With respect to a farming operation when a majority of the participants are family members, an adult family member shall be considered to be actively engaged in farming with respect to the farming operation if the person—

“(A) makes a significant contribution, based on the total value of the farming operation, of active personal management or personal labor; and

“(B) such contribution meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

“(3) **SHARECROPPER.**—A sharecropper who makes a significant contribution of personal labor to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if such contribution meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

“(4) **GROWERS OF HYBRID SEED.**—In determining whether a person or legal entity growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

“(5) **CUSTOM FARMING SERVICES.**—A person or legal entity receiving custom farming services will be considered separately eligible for payment limitation purposes if such person or legal entity is actively engaged in farming based on subsection (b)(2) or paragraphs (1) through (5) of this subsection. No other rules with respect to custom farming shall apply in making a determination under this section.

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involved to produce program crops.

### “(c) SPECIAL CLASSES ACTIVELY ENGAGED.—

“(1) **LANDOWNER.**—A person or legal entity that is a landowner contributing the owned land to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if—

“(A) the landowner receives rent or income for the use of the land based on the production on the land or the operating results of the operation; and

“(B) the person or legal entity meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

“(2) **ADULT FAMILY MEMBER.**—If a majority of the participants in a farming operation are family members, an adult family member shall be considered to be actively engaged in farming with respect to the farming operation if the person—

“(A) makes a significant contribution, based on the total value of the farming operation, of active personal management or personal labor; and

“(B) with respect to such contribution, meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

“(3) **SHARECROPPER.**—A sharecropper who makes a significant contribution of personal labor to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if the contribution meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

“(4) **GROWERS OF HYBRID SEED.**—In determining whether a person or legal entity growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

### “(5) CUSTOM FARMING SERVICES.—

“(A) **IN GENERAL.**—A person or legal entity receiving custom farming services shall be considered separately eligible for payment limitation purposes if the person or legal entity is actively engaged in farming based on subsection (b)(2) or paragraphs (1) through (4) of this subsection.

“(B) **PROHIBITION.**—No other rules with respect to custom farming shall apply.

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“(6) **SPOUSE.**—Where one spouse is determined to be actively engaged, the other spouse shall be determined to have met the requirements of subclause (II) of subsection (b)(2)(A)(i) of this section.

“(d) **CLASSES NOT ACTIVELY ENGAGED.**—

“(1) **CASH RENT LANDLORD.**—A landlord contributing land to a farming operation shall not be considered to be actively engaged in farming with respect to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for such use of the land.

“(2) **OTHER PERSONS.**—Any other person determined by the Secretary as failing to meet the standards set out in subsections (b)(2) and (c) shall not be considered to be actively engaged in farming with respect to a farming operation.”.

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“(6) **SPOUSE.**—If 1 spouse (or estate of a deceased spouse) is determined to be actively engaged, the other spouse shall be determined to have met the requirements of subsection (b)(2)(A)(i)(II).

“(d) **CLASSES NOT ACTIVELY ENGAGED.**—

“(1) **CASH RENT LANDLORD.**—A landlord contributing land to a farming operation shall not be considered to be actively engaged in farming with respect to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.

“(2) **OTHER PERSONS AND LEGAL ENTITIES.**—Any other person or legal entity that the Secretary determines does not meet the standards described in subsections (b)(2) and (c) shall not be considered to be actively engaged in farming with respect to a farming operation.”.

(f) **CONFORMING AMENDMENTS.** —

(1) Section 1009(e) of the Food Security Act of 1985 (7 U.S.C. 1308a(e)) is amended in the second sentence by striking “of \$50,000”.

(2) Section 609(b)(1) of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471g(b)(1)) is amended by inserting “(before the amendment made by section 1703(a) of the Food and Energy Security Act of 2007)” after “1985”.

(3) Section 524(b)(3) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(3)) is amended by inserting “(before the amendment made by section 1703(a) of the Food and Energy Security Act of 2007)” after “1308(5))”.

(4) Section 196(i) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(i)) is amended in paragraphs (1)(A) and (5) by inserting “(before the amendment made by section 1703(a) of the Food and Energy Security Act of 2007)” after “1308” each place it appears.

(5) Section 10204(c)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8204(c)(1)) is amended by inserting “(before the amendment made by section 1703(a) of the Food and Energy Security Act of 2007)” after “1308”.

(6) Section 1271(c)(3)(A) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2106a(c)(3)(A)) is amended by inserting “(before the amendment made by section 1703(a) of the Food and Energy Security Act of 2007)” after “1308”.

(7) Section 291(2) of the Trade Act of 1974 (19 U.S.C. 2401(2)) is amended by

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<p>(e) <b>TRANSITION.</b>—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 2007 crop of any covered commodity.</p>	<p>inserting “(before the amendment made by section 1703(a) of the Food and Energy Security Act of 2007)” before the period at the end.</p> <p>(g) <b>TRANSITION.</b>—Section 1001, 1001A, and 1001B of the Food Security Act of 1985 (7 U.S.C. 1308, 1308-1, 1308-2), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 2007 crop of any covered commodity or peanuts.</p>
<p><b>SEC. 1504. ADJUSTED GROSS INCOME LIMITATION.</b></p> <p>(a) <b>EXTENSION OF ADJUSTED GROSS INCOME LIMITATION.</b>—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) is amended—</p> <p>(1) in subsection (b)(2), by striking “Farm Security and Rural Investment Act of 2002” each place it appears and inserting “Farm, Nutrition, and Bioenergy Act of 2007”; and</p> <p>(2) in subsection (e), by striking “2007” and inserting “2012”.</p> <p>(b) <b>MODIFICATION OF LIMITATION.</b>—Section 1001D(b) of the Food Security Act of 1985 (7 U.S.C. 1308–3a(b)) is amended—</p> <p>(1) by striking paragraph (1) and inserting the following new paragraph:</p> <p>“(1) <b>CAPS.</b>—</p> <p>“(A) <b>UPPER LIMIT.</b>—Notwithstanding any other provision of law, an individual or entity shall not be eligible to receive any benefit described in paragraph (2) during a crop year if the average adjusted gross income of</p>	<p><b>SEC. 1704. ADJUSTED GROSS INCOME LIMITATION.</b></p> <p>(a) <b>EXTENSION OF ADJUSTED GROSS INCOME LIMITATION.</b>—Section 1001D(e) of the Food Security Act of 1985 (7 U.S.C. 1308-3a(e)) is amended by striking “2007” and inserting “2012”.</p> <p>(b) <b>ALLOCATION OF INCOME.</b>—Section 1001D(a) of the Food Security Act of 1985 (7 U.S.C. 1308-3a(a)) is amended by adding at the end the following:</p> <p>“(3) <b>ALLOCATION OF INCOME.</b>—On the request of any individual filing a joint tax return, the Secretary shall provide for the allocation of adjusted gross income among the individuals filing the return based on a certified statement provided by a certified public accountant or attorney specifying the manner in which the income would have been declared and reported if the individuals had filed 2 separate returns, if the Secretary determines that the calculation is consistent with the information supporting the filed joint return.”.</p> <p>(c) <b>MODIFICATION OF LIMITATION.</b>—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a) is amended by striking subsection (b) and inserting the following:</p> <p>“(b) <b>LIMITATION.</b>—</p> <p>“(1) <b>COMMODITY AND CONSERVATION PROGRAMS.</b>—</p> <p>“(A) <b>COMMODITY PROGRAMS.</b>—</p> <p>“(i) <b>2009 CROP YEAR.</b>—Notwithstanding any other provision of law, an individual or entity shall not be eligible to receive any benefit described in</p>

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the individual or entity exceeds \$1,000,000.

“(B) **PRODUCER EXEMPTION.**—Notwithstanding any other provision of law, an individual or entity shall not be eligible to receive any benefit described in paragraph (2) during a crop year if the average adjusted gross income of the individual or entity exceeds \$500,000, unless not less than 66.66 percent of the average adjusted gross income of the individual or entity is derived from farming, ranching, or forestry operations, as determined by the Secretary.”;

(2) in paragraph (2)(A), by striking “or C”; and

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paragraph (2)(A) during the 2009 crop year if the average adjusted gross income of the individual or entity exceeds \$1,000,000, unless not less than 66.66 percent of the average adjusted gross income of the individual or entity is derived from farming, ranching, or forestry operations, as determined by the Secretary.

“(ii) **2010 AND SUBSEQUENT CROP YEARS.**—Notwithstanding any other provision of law, an individual or entity shall not be eligible to receive any benefit described in paragraph (2)(A) during any of the 2010 and subsequent crop years if the average adjusted gross income of the individual or entity exceeds \$750,000, unless not less than 66.66 percent of the average adjusted gross income of the individual or entity is derived from farming, ranching, or forestry operations, as determined by the Secretary.

“(B) **CONSERVATION PROGRAMS.**—Notwithstanding any other provision of law, an individual or entity shall not be eligible to receive any benefit described in paragraph (2)(B) during a fiscal year if the average adjusted gross income of the individual or entity exceeds \$2,500,000, unless not less than 75 percent of the average adjusted gross income of the individual or entity is derived from farming, ranching, or forestry operations, as determined by the Secretary.

“(2) **COVERED BENEFITS.**—

“(A) **IN GENERAL.**—Paragraph (1)(A) apply with respect to the following:

“(i) A direct payment or counter-cyclical payment under part I or III of subtitle A of title I of the Food and Energy Security Act of 2007.

“(ii) A marketing loan gain or loan deficiency payment under part II or III of subtitle A of title I of the Food and Energy Security Act of 2007.

“(iii) An average crop revenue payment under subtitle B of title I of Food and Energy Security Act of 2007.

“(B) **CONSERVATION PROGRAMS.**—Paragraph (1)(B) applies with respect to a payment under any program under—

“(i) title XII of this Act;

“(ii) title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 116 Stat. 223); or

“(iii) title II of the Food and Energy Security Act of 2007.

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

“(3) **INCOME DERIVED FROM FARMING, RANCHING OR FORESTRY OPERATIONS.**—In determining what portion of the average adjusted gross income of an individual or entity is derived from farming, ranching, or forestry operations, the Secretary shall include income derived from the following:

“(A) The production of crops, livestock, or unfinished raw forestry products.

“(B) The sale, including the sale of easements and development rights, of farm, ranch, or forestry land or water rights.

“(C) The sale, but not as a dealer, of equipment purchased to conduct farm, ranch, or forestry operations when the equipment is otherwise subject to depreciation expense.

“(D) The rental of land used for farming, ranching, or forestry operations.

“(E) The provision of production inputs and services to farmers, ranchers, and foresters.

“(F) The processing, storing, and transporting of farm, ranch, and forestry commodities.

“(G) The sale of land that has been used for agriculture.”.

“(3) **INCOME DERIVED FROM FARMING, RANCHING OR FORESTRY OPERATIONS.**— In determining what portion of the average adjusted gross income of an individual or entity is derived from farming, ranching, or forestry operations, the Secretary shall include income derived from--

“(A) the production of crops, livestock, or unfinished raw forestry products;

“(B) the sale, including the sale of easements and development rights, of farm, ranch, or forestry land or water or hunting rights;

“(C) the sale of equipment to conduct farm, ranch, or forestry operations;

“(D) the rental or lease of land used for farming, ranching, or forestry operations, including water or hunting rights;

“(E) the provision of production inputs and services to farmers, ranchers, and foresters;

“(F) the processing (including packing), storing (including shedding), and transporting of farm, ranch, and forestry commodities;

“(G) the sale of land that has been used for agriculture; and

“(H) payments or other income attributable to benefits received under any program authorized under title I or II of the Food and Energy Security Act of 2007.’.

(d) **Transition.**—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 2007 and 2008 crops of any covered commodity or peanuts.

## SEC. 1505. ADJUSTMENTS OF LOANS.

Section 162 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7282) is amended—

(1) in subsection (a), by inserting “(except for cotton and long grain, medium grain, and short grain rice)” after “commodity”;

(2) in subsection (b), by striking “Farm Security and Rural Investment Act of

## SEC. 1210. ADJUSTMENTS OF LOANS.

(a) **ADJUSTMENT AUTHORITY.**—Subject to subsections (e) and (f), the Secretary may make appropriate adjustments in the loan rates for any loan commodity (other than cotton) for differences in grade, type, quality, location, and other factors.

(b) **MANNER OF ADJUSTMENT.**—The adjustments under subsection (a) shall, to the maximum extent practicable, be made in such a manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of

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2002” and inserting “Farm, Nutrition, and Bioenergy Act of 2007”; and

(3) by adding at the end the following new subsections:

**“(d) ADJUSTMENT IN LOAN RATE FOR COTTON.—**

**“(1) ADJUSTMENT AUTHORITY.—**The Secretary may make appropriate adjustments in the loan rate for cotton for differences in quality factors.

**“(2) REVISIONS TO QUALITY ADJUSTMENTS FOR UPLAND COTTON.—**

**“(A) REVISION.—**Within 180 days after the date of the enactment of the Farm, Nutrition, and Bioenergy Act of 2007, the Secretary, after consultation with the private sector as provided in paragraph (3), shall implement revisions in the administration of the marketing assistance loan program for upland cotton to more accurately and efficiently reflect market values for upland cotton.

**“(B) MANDATORY REVISIONS.—**The revisions required under subparagraph (A) shall include the following:

**“(i) The elimination or adjustment of warehouse location differentials to reflect market conditions.**

**“(ii) The establishment of differentials for the various quality factors and staple lengths of cotton based on a three-year, weighted moving average of the weighted designated spot market regions as determined by regional production.**

**“(iii) The elimination of any artificial split in the premium or discount between upland cotton with a 32 or 33 staple length due to micronaire;**

**“(iv) A mechanism to ensure that no premium or discount is established that exceeds the premium or discount associated with a leaf grade that is one better than the applicable color grade.**

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support determined in accordance with this subtitle and subtitles B through E.

**(c) ADJUSTMENT ON COUNTY BASIS.—**

**(1) IN GENERAL.—**The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest loan rate being 95 percent of the national average loan rate, if those loan rates do not result in an increase in outlays.

**(2) PROHIBITION.—**Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

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

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

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

**(A) IN GENERAL.—**Not later than 180 days after the enactment of this Act and after consultation with the private sector in accordance with paragraph (3), the Secretary shall implement revisions in the administration of the marketing assistance loan program for upland cotton to more accurately and efficiently reflect market values for upland cotton.

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

**(i) the elimination of warehouse location differentials;**

**(ii) the establishment of differentials for the various quality factors and staple lengths of cotton based on a 3-year, weighted moving average of the weighted designated spot market regions, as determined by regional production;**

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

**(iv) a mechanism to ensure that no premium or discount is established that exceeds the premium or discount associated with a leaf grade that is 1 better than the applicable color grade.**



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“(C) **DISCRETIONARY REVISIONS.**—The revisions under subparagraph (A) may include, at a minimum, the following:

“(i) The use of non-spot market price data, in addition to spot market price data, that would enhance the accuracy of the price information used in determining quality adjustments under this subsection.

“(ii) Adjustments in the premiums or discounts associated with upland cotton with a staple length of 33 or above due to micronaire with the goal of eliminating any unnecessary artificial splits in the calculations of such premiums or discounts.

“(iii) Such other adjustments determined appropriate by the Secretary, after consultations conducted in accordance with paragraph (3).

“(3) **CONSULTATION WITH PRIVATE SECTOR.**—

“(A) **PRIOR TO REVISION.**—Prior to implementing any revisions to the administration of the marketing assistance loan program for upland cotton, the Secretary should endeavor to consult with an existing private sector committee whose membership includes representatives of the production, ginning, warehousing, cooperative, and merchandising segments of the United States cotton industry and that has developed recommendations concerning such revisions.

“(B) **UPON REVIEW.**—The Secretary shall also consult with the committee referred to in subparagraph (A) when conducting a review of adjustments in the operation of the loan program as provided in paragraph (4).

“(C) **INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations under this paragraph with the committee referred to in subparagraph (A).

“(4) **REVIEW OF ADJUSTMENTS.**—The Secretary may review the operation of the upland cotton quality adjustments implemented pursuant to this subsection

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(C) **DISCRETIONARY REVISIONS.**—Revisions under subparagraph (A) may include—

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

(ii) adjustments in the premiums or discounts associated with upland cotton with a staple length of 33 or above due to micronaire with the goal of eliminating any unnecessary artificial splits in the calculations of the premiums or discounts; and

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

(3) **CONSULTATION WITH PRIVATE SECTOR.**—

(A) **PRIOR TO REVISION.**—Prior to implementing any revisions to the administration of the marketing assistance loan program for upland cotton, the Secretary shall consult with a private sector committee that—

(i) is in existence as of the date of enactment of this Act;

(ii) has a membership that includes representatives of the production, ginning, warehousing, cooperative, and merchandising segments of the United States cotton industry; and

(iii) has developed recommendations concerning the revisions.

(B) **REVIEW OF ADJUSTMENTS.**—The Secretary shall consult with the committee described in subparagraph (A) when conducting a review of adjustments in the operation of the loan program for upland cotton in accordance with paragraph (4).

(C) **INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations under this subsection.

(4) **REVIEW OF ADJUSTMENTS.**—The Secretary may review the operation of the upland cotton quality adjustments implemented pursuant to this subsection and may

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<p>and may make further revisions to the administration of the loan program, by either revoking or revising the actions taken pursuant to paragraph (2)(B) or by revoking or revising any actions taken or authorized to be taken under paragraph (2)(B).</p> <p>“(5) <b>ADJUSTMENTS IN EFFECT PRIOR TO REVISION.</b>—The quality differences (premiums and discounts for quality factors) applicable to the upland cotton loan program (prior to any revisions in accordance with this subsection) shall be established by the Secretary by giving equal weight—</p> <p>    “(A) to loan differences for the preceding crop; and</p> <p>    “(B) to market differences for such crop in the designated United States spot markets.</p> <p>“(e) <b>RICE LIMITATION.</b>—With respect to long grain rice and medium and short grain rice, the Secretary shall not make adjustments in the loan rates for such commodities, except for differences in grade and quality (including milling yields).”.</p>	<p>make further revisions to the administration of the loan program for upland cotton, by—</p> <p>    (A) revoking or revising any actions taken under paragraph (2)(B); or</p> <p>    (B) revoking or revising any actions taken or authorized to be taken under paragraph (2)(C).</p> <p>(5) <b>ADJUSTMENTS IN EFFECT PRIOR TO REVISION.</b>—The quality differences (premiums and discounts for quality factors) applicable to the loan program for upland cotton (prior to any revisions in accordance with this subsection) shall be established by the Secretary by giving equal weight to—</p> <p>    (A) loan differences for the preceding crop; and</p> <p>    (B) market differences for the crop in the designated United States spot markets.</p> <p>(e) <i>CORN AND GRAIN SORGHUM; see Sec. 1202.</i></p> <p>(f) <b>RICE.</b>—The Secretary shall not make adjustments in the loan rates for long grain rice and medium grain rice, except for differences in grade and quality (including milling yields).</p>
<p><b>SEC. 1506. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.</b></p> <p>Section 164 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7284) is amended by striking “Farm Security and Rural Investment Act of 2002” each place it appears and inserting “Farm, Nutrition, and Bioenergy Act of 2007”.</p>	<p><b>SEC. 1709. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.</b></p> <p>Section 164 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7284) is amended by striking “and title I of the Farm Security and Rural Investment Act of 2002” each place it appears and inserting “title I of the Farm Security and Rural Investment Act of 2002, and title I of the Food and Energy Security Act of 2007”.</p>
<p><b>SEC. 1507. EXTENSION OF EXISTING ADMINISTRATIVE AUTHORITY REGARDING LOANS.</b></p> <p>Section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286) is amended in subsections (a) and (c)(1) by striking “subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002” each place it appears and inserting “subtitle B of title I of the Farm, Nutrition, and Bioenergy Act of 2007”.</p>	<p><b>SEC. 1710. EXTENSION OF EXISTING ADMINISTRATIVE AUTHORITY REGARDING LOANS.</b></p> <p>Section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286) is amended in subsections (a) and (c)(1) by striking “and subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002” each place it appears and inserting “title I of the Farm Security and Rural Investment Act of 2002, and title I of the Food and Energy Security Act of 2007”.</p>
<p><b>SEC. 1508. ASSIGNMENT OF PAYMENTS.</b></p> <p>(a) <b>IN GENERAL.</b>—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to</p>	<p><b>SEC. 1711. ASSIGNMENT OF PAYMENTS.</b></p> <p>(a) <b>IN GENERAL.</b>—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to</p>

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<p>payments made under the authority of this title.</p> <p>(b) <b>NOTICE.</b>—The producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this section</p>	<p>payments made under the authority of subtitles A through E and this subtitle.</p> <p>(b) <b>NOTICE.</b>—The producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this section.</p>
<p><b>SEC. 1509. TRACKING OF BENEFITS.</b></p> <p>As soon as practicable after the date of enactment of this Act, the Secretary shall track the benefits provided, directly or indirectly, to individuals and entities under titles I and II and the amendments made by those titles.</p>	
<p><b>SEC. 1510. UPLAND COTTON STORAGE PAYMENTS.</b></p> <p>Beginning with the 2011 crop of upland cotton, the Secretary may not use the funds of the Commodity Credit Corporation to pay storage, handling, and other costs associated with the storage of upland cotton for which a marketing assistance loan is made under section 1201.</p>	<p><b>SEC. 1204. REPAYMENT OF LOANS.</b></p> <p>(h) <b>PAYMENT OF COTTON STORAGE COSTS.</b>—Effective for the 2008 through 2012 crop years, the Secretary shall use the funds of the Commodity Credit Corporation to provide cotton storage payments in the same manner, and at the same rates, as the Secretary provided those payments for the 2006 crop of cotton.</p>
<p><b>SEC. 1511. GOVERNMENT PUBLICATION OF COTTON PRICE FORECASTS.</b></p> <p>Section 15 of the Agricultural Marketing Act (12 U.S.C. 1141j) is amended by striking subsection (d).</p>	<p><b>SEC. 1714. GOVERNMENT PUBLICATION OF COTTON PRICE FORECASTS.</b></p> <p>Section 15 of the Agricultural Marketing Act (12 U.S.C. 1141j) is amended—</p> <p>(1) by striking subsection (d); and</p> <p>(2) by redesignating subsections (e) through (g) as subsections (d) through (f), respectively.</p>
<p><b>SEC. 1512. PREVENTION OF DECEASED PERSONS RECEIVING PAYMENTS UNDER FARM COMMODITY PROGRAMS.</b></p> <p>(a) <b>IDENTIFICATION OF ERRONEOUS PAYMENTS MADE TO DECEASED PERSONS.</b>—The Secretary of Agriculture shall—</p> <p>(1) undertake a study to identify any estate of a deceased person that continued to receive payments under this title for more than two crop years after the death of the person; and</p> <p>(2) submit a report containing the results of the study to Congress.</p> <p>(b) <b>NOTIFICATION.</b>—The Secretary shall issue regulations that specify deadlines by which a legal entity must notify the Secretary of any change in ownership of such entity,</p>	<p><b>SEC. 11073. PAYMENTS TO DECEASED INDIVIDUALS AND ESTATES.</b></p>

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including the death of a person with a direct or indirect ownership interest in the entity, that may affect the entity's eligibility to receive payments or other benefits under this title. The Secretary may deny the issuance of such payments or benefits to an entity that fails to comply with such regulations.

(c) **RECOUPMENT.**—If the Secretary determines that the estate of a deceased person failed to timely notify the Farm Service Agency of the death, the Secretary shall recoup the erroneous payments made on behalf of the deceased person. The Secretary shall withhold payments that would otherwise be made under this title to farming operations in which the deceased person was actively engaged in farming before death until the funds have been recouped.

(d) **COORDINATION.**—The Secretary shall, twice a year, reconcile individual tax identification numbers with the Internal Revenue Service for recipients of payments under this title to determine recipients' living status.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary shall not provide to any deceased individual or estate of such an individual any agricultural payment under this Act, or an Act amended by this Act, after the date that is 2 program years (as determined by the Secretary with respect to the applicable payment program) after the date of death of the individual.

(b) **REPORT.**—As soon as practicable after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and post on the website of the Department of Agriculture, a report that describes, for the period covered by the report—

(1) the number and aggregate amount of agricultural payments described in subsection (a) provided to deceased individuals and estates of deceased individuals; and

(2) for each such payment, the length of time the estate of the deceased individual that received the payment has been open.

## SEC. 1706. HARD WHITE WHEAT DEVELOPMENT PROGRAM.

(a) **DEFINITIONS.**—In this section:

(1) **ELIGIBLE HARD WHITE WHEAT SEED.**—The term “eligible hard white wheat seed” means hard white wheat seed that, as determined by the Secretary, is—

(A) certified;

(B) of a variety that is suitable for the State in which the seed will be planted;

(C) rated at least superior with respect to quality; and

(D) specifically approved under a seed establishment program established by the State Department of Agriculture and the State Wheat Commission of the 1 or more States in which the seed will be planted.

(2) **PROGRAM.**—The term “program” means the hard white wheat development program established under subsection (b)(1).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture, in consultation with the State Departments of Agriculture and the State Wheat Commissions of the States in regions in which hard white wheat is produced, as determined by the Secretary.

(b) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—The Secretary shall establish a hard white wheat development program in accordance with paragraph (2) to promote the establishment of hard white wheat as a viable market class of wheat in the United States by encouraging production of at least 240,000,000 bushels of hard white wheat by 2012.

(2) **PAYMENTS.** —

(A) **IN GENERAL.**—Subject to subparagraphs (B) and (C) and subsection (c), the Secretary shall make available incentive payments to producers of each of the 2008 through 2012 crops of hard white wheat.

(B) **ACREAGE LIMITATION.**—The Secretary shall carry out subparagraph (A) subject to a regional limitation determined by the Secretary on the number of acres for which payments may be received that takes into account planting history and potential planting, but does not exceed a total of 2,900,000 acres or the equivalent volume of production based on a yield of 50 bushels per acre.

(C) **PAYMENT LIMITATIONS.**—Payments to producers on a farm described in subparagraph (A) shall be—

(i) in an amount that is not less than \$0.20 per bushel; and

(ii) in an amount that is not less than \$2.00 per acre for planting eligible hard white wheat seed.

(c) **FUNDING.**—The Secretary shall make available \$35,000,000 of funds of the

	<p>Commodity Credit Corporation during the period of crop years 2008 through 2012 to provide incentive payments to producers of hard white wheat under this section.</p>
	<p style="text-align: center;"><b>SEC. 1707. DURUM WHEAT QUALITY PROGRAM.</b></p> <p>(a) <b>IN GENERAL.</b>—Subject to the availability of funds under subsection (c), the Secretary shall provide compensation to producers of durum wheat in an amount not to exceed 50 percent of the actual cost of fungicides applied to a crop of durum wheat of the producers to control Fusarium head blight (wheat scab) on acres certified to have been planted to Durum wheat in a crop year.</p> <p>(b) <b>INSUFFICIENT FUNDS.</b>—If the total amount of funds appropriated for a fiscal year under subsection (c) are insufficient to fulfill all eligible requests for compensation under this section, the Secretary shall prorate the compensation payments in a manner determined by the Secretary to be equitable.</p> <p>(c) <b>AUTHORIZATION OF APPROPRIATIONS.</b>—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2008 through 2012.</p>
	<p style="text-align: center;"><b>SEC. 1708. STORAGE FACILITY LOANS.</b></p> <p>(a) <b>IN GENERAL.</b>—As soon as practicable after the date of enactment of this Act, the Secretary shall establish a storage facility loan program to provide funds for producers of grains, oilseeds, pulse crops, hay, renewable biomass, and other storable commodities (other than sugar), as determined by the Secretary, to construct or upgrade storage and handling facilities for the commodities.</p> <p>(b) <b>ELIGIBLE PRODUCERS.</b>—A storage facility loan under this section shall be made available to any producer described in subsection (a) that, as determined by the Secretary—</p> <ol style="list-style-type: none"> <li>(1) has a satisfactory credit history;</li> <li>(2) has a need for increased storage capacity; and</li> <li>(3) demonstrates an ability to repay the loan.</li> </ol> <p>(c) <b>TERM OF LOANS.</b>—A storage facility loan under this section shall have a maximum term of 12 years.</p> <p>(d) <b>LOAN AMOUNT.</b>—The maximum principal amount of a storage facility loan under this section shall be \$500,000.</p>

(e) **LOAN DISBURSEMENTS.**—The Secretary shall provide for partial disbursements of loan principal, as determined to be appropriate and subject to acceptable documentation, to facilitate the purchase and construction of eligible facilities.

(f) **LOAN SECURITY.**—Approval of a storage facility loan under this section shall—

(1) for loan amounts of less than \$150,000, not require a lien on the real estate parcel on which the storage facility is located;

(2) for loan amounts equal to or more than \$150,000, not require a severance agreement from the holder of any prior lien on the real estate parcel on which the storage facility is located, if the borrower—

(A) agrees to increase the down payment on the storage facility loan by an amount determined appropriate by the Secretary; or

(B) provides other security acceptable to the Secretary; and

(3) allow a borrower, upon the approval of the Secretary, to define a subparcel of real estate as security for the storage facility loan if the subparcel is—

(A) of adequate size and value to adequately secure the loan; and

(B) not subject to any other liens or mortgages that are superior to the lien interest of the Commodity Credit Corporation.

**SEC. 1715. STATE, COUNTY, AND AREA COMMITTEES.**

Section 8(b)(5)(B)(ii) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)(B)(ii)) is amended—

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

(2) in the matter preceding item (aa) (as redesignated by paragraph (1)), by striking “A committee established” and inserting the following:

“(I) **IN GENERAL.**—Except as provided in subclause (II), a committee established”; and

(3) by adding at the end the following:

“(II) **COMBINATION OR CONSOLIDATION OF AREAS.**—A committee

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	<p>established by combining or consolidating 2 or more county or area committees shall consist of not fewer than 3 nor more than 11 members that—</p> <p>“(aa) are fairly representative of the agricultural producers within the area covered by the county, area, or local committee; and</p> <p>“(bb) are elected by the agricultural producers that participate or cooperate in programs administered within the area under the jurisdiction of the county, area, or local committee.</p> <p>“(III) <b>REPRESENTATION OF SOCIALLY DISADVANTAGE FARMERS AND RANCHERS.</b>—The Secretary shall ensure, to the extent practicable, that representation of socially disadvantaged farmers and ranchers is maintained on combined or consolidated committees.</p> <p>“(IV) <b>ELIGIBILITY FOR MEMBERSHIP.</b>—Notwithstanding any other producer eligibility requirements for service on county or area committees, if a county or area is consolidated or combined, a producer shall be eligible to serve only as a member of the county or area committee that the producer elects to administer the farm records of the producer.”.</p>
	<p><b>SEC. 1716. PROHIBITION ON CHARGING CERTAIN FEES.</b></p> <p>Public Law 108-470 (7 U.S.C. 7416a) is amended—</p> <p>(1) in subsection (a), by striking “may” and inserting “shall”; and</p> <p>(2) by adding at the end the following:</p> <p>“(c) <b>PROHIBITION ON CHARGING CERTAIN FEES.</b>—The Secretary may not charge any fees or related costs for the collection of commodity assessments pursuant to this Act.”.</p>
	<p><b>SEC. 1717. SIGNATURE AUTHORITY.</b></p> <p>In carrying out this title and title II and amendments made by those titles, if the Secretary approves a document containing signatures of program applicants, the Secretary shall not subsequently determine the document is inadequate or invalid because of the lack of authority of any applicant signing the document on behalf of the applicant or any other individual, entity, general partnership, or joint venture, or the documents relied upon were determined inadequate or invalid, unless the applicant knowingly and willfully falsified the evidence of signature</p>



	<p>authority or a signature.</p>
	<p align="center"><b>SEC. 1718. MODERNIZATION OF FARM SERVICE AGENCY.</b></p> <p>The Secretary shall modernize the Farm Service Agency information technology and communication systems to ensure timely and efficient program delivery at national, State, and County offices.</p>
	<p align="center"><b>SEC. 1719. GEOSPATIAL SYSTEMS.</b></p> <p>(a) <b>IN GENERAL.</b>—The Secretary shall ensure that all agencies of the Department of Agriculture consolidate the geospatial systems of the agencies into a single enterprise system that ensures that geospatial data is shareable, portable, and standardized.</p> <p>(b) <b>REQUIREMENTS.</b>—In carrying out subsection (a), the Secretary shall—</p> <ul style="list-style-type: none"> <li>(1) identify common datasets;</li> <li>(2) give responsibility for managing each identified dataset to the agency best suited for collecting and maintaining that data, as determined by the Secretary; and</li> <li>(3) make every effort to minimize the duplication of efforts.</li> </ul> <p>(c) <b>AVAILABILITY OF DATA.</b>—The Secretary shall ensure, to the maximum extent practicable, that data is readily available to all agencies beginning not later than 2 years after the date of enactment of this Act.</p>
	<p align="center"><b>SEC. 1720. LEASING OFFICE SPACE.</b></p> <p>The Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation to lease space for use by agencies of the Department of Agriculture in cases in which office space would be jointly occupied by the agencies.</p>
	<p align="center"><b>SEC. 1721. REPEALS.</b></p> <p>(a) <b>COMMISSION ON APPLICATION OF PAYMENT LIMITATIONS.</b>—Section 1605 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7993) is repealed.</p> <p>(b) <b>RENEWED AVAILABILITY OF MARKET LOSS ASSISTANCE AND CERTAIN EMERGENCY ASSISTANCE TO PERSONS THAT FAILED TO RECEIVE ASSISTANCE UNDER EARLIER</b></p>

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	<p><b>AUTHORITIES.</b>—Section 1617 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8000) is repealed.</p>
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