

FOOD, CONSERVATION, AND ENERGY ACT OF 2008

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MAY 13, 2008.—Ordered to be printed  
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Mr. PETERSON of Minnesota, from the committee of conference,  
submitted the following

CONFERENCE REPORT

[To accompany H.R. 2419]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 2419), to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

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

(a) *SHORT TITLE.*—*This Act may be cited as the “Food, Conservation, and Energy Act of 2008”.*

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

*Sec. 1. Short title; table of contents.*

*Sec. 2. Definition of Secretary.*

**TITLE I—COMMODITY PROGRAMS**

*Sec. 1001. Definitions.*

*Subtitle A—Direct Payments and Counter-Cyclical Payments*

*Sec. 1101. Base acres.*

*Sec. 1102. Payment yields.*

*Sec. 1103. Availability of direct payments.*

*Sec. 1104. Availability of counter-cyclical payments.*

*Sec. 1105. Average crop revenue election program.*

*Sec. 1106. Producer agreement required as condition of provision of payments.*

*Sec. 1107. Planting flexibility.*

*Sec. 1108. Special rule for long grain and medium grain rice.*

*Sec. 1109. Period of effectiveness.*

*Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments*

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

*Subtitle C—Peanuts*

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

*Subtitle D—Sugar*

- Sec. 1401. Sugar program.*
- Sec. 1402. United States membership in the International Sugar Organization.*
- Sec. 1403. Flexible marketing allotments for sugar.*
- Sec. 1404. Storage facility loans.*
- Sec. 1405. Commodity Credit Corporation storage payments.*

*Subtitle E—Dairy*

- Sec. 1501. Dairy product price support program.*
- Sec. 1502. Dairy forward pricing program.*
- Sec. 1503. Dairy export incentive program.*
- Sec. 1504. Revision of Federal marketing order amendment procedures.*
- Sec. 1505. Dairy indemnity program.*
- Sec. 1506. Milk income loss contract program.*
- Sec. 1507. Dairy promotion and research program.*
- Sec. 1508. Report on Department of Agriculture reporting procedures for nonfat dry milk.*
- Sec. 1509. Federal Milk Marketing Order Review Commission.*
- Sec. 1510. Mandatory reporting of dairy commodities.*

*Subtitle F—Administration*

- Sec. 1601. Administration generally.*
- Sec. 1602. Suspension of permanent price support authority.*
- Sec. 1603. Payment limitations.*
- Sec. 1604. Adjusted gross income limitation.*
- Sec. 1605. Availability of quality incentive payments for covered oilseed producers.*
- Sec. 1606. Personal liability of producers for deficiencies.*
- Sec. 1607. Extension of existing administrative authority regarding loans.*
- Sec. 1608. Assignment of payments.*
- Sec. 1609. Tracking of benefits.*
- Sec. 1610. Government publication of cotton price forecasts.*
- Sec. 1611. Prevention of deceased individuals receiving payments under farm commodity programs.*
- Sec. 1612. Hard white wheat development program.*
- Sec. 1613. Durum wheat quality program.*
- Sec. 1614. Storage facility loans.*
- Sec. 1615. State, county, and area committees.*
- Sec. 1616. Prohibition on charging certain fees.*
- Sec. 1617. Signature authority.*
- Sec. 1618. Modernization of Farm Service Agency.*
- Sec. 1619. Information gathering.*
- Sec. 1620. Leasing of office space.*
- Sec. 1621. Geographically disadvantaged farmers and ranchers.*

## PART III—NEW GRANT AND RESEARCH PROGRAMS

- Sec. 7521. *Research and education grants for the study of antibiotic-resistant bacteria.*
- Sec. 7522. *Farm and ranch stress assistance network.*
- Sec. 7523. *Seed distribution.*
- Sec. 7524. *Live virus foot and mouth disease research.*
- Sec. 7525. *Natural products research program.*
- Sec. 7526. *Sun grant program.*
- Sec. 7527. *Study and report on food deserts.*
- Sec. 7528. *Demonstration project authority for temporary positions.*
- Sec. 7529. *Agricultural and rural transportation research and education.*

## TITLE VIII—FORESTRY

## Subtitle A—Amendments to Cooperative Forestry Assistance Act of 1978

- Sec. 8001. *National priorities for private forest conservation.*
- Sec. 8002. *Long-term State-wide assessments and strategies for forest resources.*
- Sec. 8003. *Community forest and open space conservation program.*
- Sec. 8004. *Assistance to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.*
- Sec. 8005. *Changes to Forest Resource Coordinating Committee.*
- Sec. 8006. *Changes to State Forest Stewardship Coordinating Committees.*
- Sec. 8007. *Competition in programs under Cooperative Forestry Assistance Act of 1978.*
- Sec. 8008. *Competitive allocation of funds for cooperative forest innovation partnership projects.*

## Subtitle B—Cultural and Heritage Cooperation Authority

- Sec. 8101. *Purposes.*
- Sec. 8102. *Definitions.*
- Sec. 8103. *Reburial of human remains and cultural items.*
- Sec. 8104. *Temporary closure for traditional and cultural purposes.*
- Sec. 8105. *Forest products for traditional and cultural purposes.*
- Sec. 8106. *Prohibition on disclosure.*
- Sec. 8107. *Severability and savings provisions.*

## Subtitle C—Amendments to Other Forestry-Related Laws

- Sec. 8201. *Rural revitalization technologies.*
- Sec. 8202. *Office of International Forestry.*
- Sec. 8203. *Emergency forest restoration program.*
- Sec. 8204. *Prevention of illegal logging practices.*
- Sec. 8205. *Healthy forests reserve program.*

## Subtitle D—Boundary Adjustments and Land Conveyance Provisions

- Sec. 8301. *Green Mountain National Forest boundary adjustment.*
- Sec. 8302. *Land conveyances, Chihuahuan Desert Nature Park, New Mexico, and George Washington National Forest, Virginia.*
- Sec. 8303. *Sale and exchange of National Forest System land, Vermont.*

## Subtitle E—Miscellaneous Provisions

- Sec. 8401. *Qualifying timber contract options.*
- Sec. 8402. *Hispanic-serving institution agricultural land national resources leadership program.*

## TITLE IX—ENERGY

- Sec. 9001. *Energy.*
- Sec. 9002. *Biofuels infrastructure study.*
- Sec. 9003. *Renewable fertilizer study.*

## TITLE X—HORTICULTURE AND ORGANIC AGRICULTURE

- Sec. 10001. *Definitions.*

## Subtitle A—Horticulture Marketing and Information

- Sec. 10101. *Independent evaluation of Department of Agriculture commodity purchase process.*
- Sec. 10102. *Quality requirements for clementines.*
- Sec. 10103. *Inclusion of specialty crops in census of agriculture.*

a farm with respect to a quantity of peanuts using the payment rate in effect under paragraph (3) as of the date the producers request the payment.

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

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

**SEC. 1308. 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, D, and E.

(c) **ADJUSTMENT ON COUNTY BASIS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), 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 D—Sugar**

**SEC. 1401. SUGAR PROGRAM.**

(a) **IN GENERAL.**—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended to read as follows:

**“SEC. 156. SUGAR PROGRAM.**

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

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

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

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

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

“(5) 18.75 cents per pound for raw cane sugar for the 2012 crop year.

“(b) *SUGAR BEETS.*—*The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to—*

“(1) 22.9 cents per pound for refined beet sugar for the 2008 crop year; and

“(2) a rate 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) for each of the 2009 through 2012 crop years.

“(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 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—

“(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 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.

“(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.

“(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 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 enactment of this Act.

**SEC. 1402. UNITED STATES MEMBERSHIP IN THE INTERNATIONAL SUGAR ORGANIZATION.**

The Secretary shall work with the Secretary of State to restore United States membership in the International Sugar Organization not later than 1 year after the date of enactment of this Act.

**SEC. 1403. 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

(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 9010 of the Farm Security and Rural Investment Act of 2002.

“(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.”.

(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 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.

“(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 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 9010 of the Farm Security and Rural Investment Act of 2002.

“(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

“(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.”.*

(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.—*

*“(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—*

*(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 (G), (H), and (I) and inserting the following:*

*“(G) SALE OF FACTORIES OF A PROCESSOR TO ANOTHER PROCESSOR.—*

*“(i) EFFECT OF SALE.—Subject to subparagraphs (E) and (F), if 1 or more factories of a processor of beet sugar (but not all of the assets of the processor) are sold to another processor of beet sugar during a crop year, the Secretary shall assign a pro rata portion of the allocation of the seller to the allocation of the buyer to reflect the historical contribution of the production of*

the sold 1 or more factories to the total allocation of the seller, unless the buyer and the seller have agreed upon the transfer of a different portion of the allocation of the seller, in which case, the Secretary shall transfer that portion agreed upon by the buyer and seller.

“(ii) APPLICATION OF ALLOCATION.—The assignment of the allocation under clause (i) shall apply—

“(I) during the remainder of the crop year for which the sale described in clause (i) occurs; and

“(II) during each subsequent crop year.

“(iii) USE OF OTHER FACTORIES TO FILL ALLOCATION.—If the assignment of the allocation under clause (i) to the buyer for the 1 or more purchased factories cannot be filled by the production of the 1 or more purchased factories, the remainder of the allocation may be filled by beet sugar produced by the buyer from other factories of the buyer.

“(H) NEW ENTRANTS STARTING PRODUCTION, REOPENING, OR ACQUIRING AN EXISTING FACTORY WITH PRODUCTION HISTORY.—

“(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 the third party are affiliated.

“(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 1 or more sold factories to the total allocation of the current allocation holder, unless the new entrant and current allocation holder have agreed upon the transfer of a different portion of the allocation of the current allocation holder, in which case, the Secretary shall transfer that portion agreed upon by the new entrant and the current allocation holder.

“(II) PROHIBITION.—In the absence of a mutual agreement described in subclause (I), the new entrant shall be 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.”

(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—

- (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”;

(4) in paragraph (3) (as so redesignated)—

(A) in the first sentence—

(i) by striking “paragraph (1)” and inserting “paragraph (2)”;

(ii) by inserting “sugar produced from” after “quantity of”;

(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”;

(6) in paragraph (8) (as so redesignated), by inserting “sugar from” after “the amount of”.

(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:

“(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 acreage base 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 Secretary becomes aware of a conversion of any sugarcane acreage base to a nonagricultural use, the Secretary shall notify the 1 or more affected landowners of the transferability of the applicable sugarcane acreage base.

“(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 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 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).”; and

(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

(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—

**“(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, and domestic raw cane sugar refining capacity 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).”.

(k) *PERIOD OF EFFECTIVENESS.*—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:

**“SEC. 359I. PERIOD OF EFFECTIVENESS.**

“(a) *IN GENERAL.*—This part shall be effective only for the 2008 through 2012 crop years for sugar.

“(b) *TRANSITION.*—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.”.

**SEC. 1404. STORAGE FACILITY LOANS.**

Section 1402(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7971(c)) is amended—

- (1) in paragraph (1), by striking “and” at the end;
- (2) by redesignating paragraph (2) as paragraph (3);
- (3) by inserting after paragraph (1) the following:
  - “(2) not include any penalty for prepayment; and”;
- (4) in paragraph (3) (as redesignated by paragraph (2)), by inserting “other” after “on such”.

**SEC. 1405. COMMODITY CREDIT CORPORATION STORAGE PAYMENTS.**

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:

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

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

- “(1) in the case of refined sugar, 15 cents per hundred-weight of refined sugar per month; and
- “(2) in the case of raw cane sugar, 10 cents per hundred-weight of raw cane sugar per month.

“(b) *SUBSEQUENT CROP YEARS.*—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.”.

**Subtitle E—Dairy**

**SEC. 1501. DAIRY PRODUCT PRICE SUPPORT PROGRAM.**

(a) *DEFINITION OF NET REMOVALS.*—In this section, the term “net removals” means—

- (1) the sum of—
  - (A) the quantity of a product described in subsection (b) purchased by the Commodity Credit Corporation under this section; and
  - (B) the quantity of the product exported under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14); less
- (2) the quantity of the product sold for unrestricted use by the Commodity Credit Corporation.

“(5) *COST-SHARING.*—The amount of a grant under the Initiative shall not exceed 50 percent of the cost of the activities described in the application.

“(d) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2009 through 2012.

**“SEC. 9010. FEEDSTOCK FLEXIBILITY PROGRAM FOR BIOENERGY PRODUCERS.**

“(a) *DEFINITIONS.*—In this section:

“(1) *BIOENERGY.*—The term ‘bioenergy’ means fuel grade ethanol and other biofuel.

“(2) *BIOENERGY PRODUCER.*—The term ‘bioenergy producer’ means a producer of bioenergy that uses an eligible commodity to produce bioenergy under this section.

“(3) *ELIGIBLE COMMODITY.*—The term ‘eligible commodity’ means a form of raw or refined sugar or in-process sugar that is eligible to be marketed in the United States for human consumption or to be used for the extraction of sugar for human consumption.

“(4) *ELIGIBLE ENTITY.*—The term ‘eligible entity’ means an entity located in the United States that markets an eligible commodity in the United States.

“(b) *FEEDSTOCK FLEXIBILITY PROGRAM.*—

“(1) *IN GENERAL.*—

“(A) *PURCHASES AND SALES.*—For each of the 2008 through 2012 crops, the Secretary shall purchase eligible commodities from eligible entities and sell such commodities to bioenergy producers for the purpose of producing bioenergy in a manner that ensures that section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272) is operated at no cost to the Federal Government by avoiding forfeitures to the Commodity Credit Corporation.

“(B) *COMPETITIVE PROCEDURES.*—In carrying out the purchases and sales required under subparagraph (A), the Secretary shall, to the maximum extent practicable, use competitive procedures, including the receiving, offering, and accepting of bids, when entering into contracts with eligible entities and bioenergy producers, provided that such procedures are consistent with the purposes of subparagraph (A).

“(C) *LIMITATION.*—The purchase and sale of eligible commodities under subparagraph (A) shall only be made in crop years in which such purchases and sales are necessary to ensure that the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272) is operated at no cost to the Federal Government by avoiding forfeitures to the Commodity Credit Corporation.

“(2) *NOTICE.*—

“(A) *IN GENERAL.*—As soon as practicable after the date of enactment of the Food, Conservation, and Energy Act of 2008 and each September 1 thereafter through September 1, 2012, the Secretary shall provide notice to eligible entities and bioenergy producers of the quantity of eligible commodities that shall be made available for purchase and

sale for the crop year following the date of the notice under this section.

“(B) REESTIMATES.—Not later than the January 1, April 1, and July 1 of the calendar year following the date of a notice under subparagraph (A), the Secretary shall reestimate the quantity of eligible commodities determined under subparagraph (A), and provide notice and make purchases and sales based on such reestimates.

“(3) COMMODITY CREDIT CORPORATION INVENTORY.—

“(A) DISPOSITIONS.—

“(i) BIOENERGY AND GENERALLY.—Except as provided in clause (ii), to the extent that an eligible commodity is owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)), the Secretary shall—

“(I) sell the eligible commodity to bioenergy producers under this section consistent with paragraph (1)(C);

“(II) dispose of the eligible commodity in accordance with section 156(f)(2) of that Act; or

“(III) otherwise dispose of the eligible commodity through the buyback of certificates of quota entry.

“(ii) PRESERVATION OF OTHER AUTHORITIES.—Nothing in this section limits the use of other authorities for the disposition of an eligible commodity held in the inventory of the Commodity Credit Corporation for nonfood use or otherwise in a manner that does not increase the net quantity of sugar available for human consumption in the United States market, consistent with section 156(f)(1) of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272(f)(1)).

“(B) EMERGENCY SHORTAGES.—Notwithstanding subparagraph (A), if there is an emergency shortage of sugar for human consumption in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event, the Secretary may dispose of an eligible commodity that is owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)) through disposition as authorized under section 156(f) of that Act or through the use of any other authority of the Commodity Credit Corporation.

“(4) TRANSFER RULE; STORAGE FEES.—

“(A) GENERAL TRANSFER RULE.—Except with regard to emergency dispositions under paragraph (3)(B) and as provided in subparagraph (C), the Secretary shall ensure that bioenergy producers that purchase eligible commodities pursuant to this section take possession of the eligible commodities within 30 calendar days of the date of such purchase from the Commodity Credit Corporation.

“(B) PAYMENT OF STORAGE FEES PROHIBITED.—

“(i) *IN GENERAL.*—The Secretary shall, to the maximum extent practicable, carry out this section in a manner that ensures no storage fees are paid by the Commodity Credit Corporation in the administration of this section.

“(ii) *EXCEPTION.*—Clause (i) shall not apply with respect to any commodities owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)).

“(C) *OPTION TO PREVENT STORAGE FEES.*—

“(i) *IN GENERAL.*—The Secretary may enter into contracts with bioenergy producers to sell eligible commodities to such producers prior in time to entering into contracts with eligible entities to purchase the eligible commodities to be used to satisfy the contracts entered into with the bioenergy producers.

“(ii) *SPECIAL TRANSFER RULE.*—If the Secretary makes a sale and purchase referred to in clause (i), the Secretary shall ensure that the bioenergy producer that purchased eligible commodities takes possession of such commodities within 30 calendar days of the date the Commodity Credit Corporation purchases the eligible commodities.

“(5) *RELATION TO OTHER LAWS.*—If sugar that is subject to a marketing allotment under part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is the subject of a payment under this section, the sugar shall be considered marketed and shall count against a processor’s allocation of an allotment under such part, as applicable.

“(6) *FUNDING.*—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation, including the use of such sums as are necessary, to carry out this section.

**“SEC. 9011. BIOMASS CROP ASSISTANCE PROGRAM.**

“(a) *DEFINITIONS.*—In this section:

“(1) *BCAP.*—The term ‘BCAP’ means the Biomass Crop Assistance Program established under this section.

“(2) *BCAP PROJECT AREA.*—The term ‘BCAP project area’ means an area that—

“(A) has specified boundaries that are submitted to the Secretary by the project sponsor and subsequently approved by the Secretary;

“(B) includes producers with contract acreage that will supply a portion of the renewable biomass needed by a biomass conversion facility; and

“(C) is physically located within an economically practicable distance from the biomass conversion facility.

“(3) *CONTRACT ACREAGE.*—The term ‘contract acreage’ means eligible land that is covered by a BCAP contract entered into with the Secretary.

“(4) *ELIGIBLE CROP.*—

“(A) *IN GENERAL.*—The term ‘eligible crop’ means a crop of renewable biomass.