

1 **TITLE XV—TRADE AND TAX**
2 **PROVISIONS**

3 **SEC. 15001. SHORT TITLE; ETC.**

4 (a) **SHORT TITLE.**—This title may be cited as the
5 “Heartland, Habitat, Harvest, and Horticulture Act of
6 2008”.

7 (b) **AMENDMENTS TO 1986 CODE.**—Except as other-
8 wise expressly provided, whenever in this title an amend-
9 ment or repeal is expressed in terms of an amendment
10 to, or repeal of, a section or other provision, the reference
11 shall be considered to be made to a section or other provi-
12 sion of the Internal Revenue Code of 1986.

13 **Subtitle A—Supplemental Agricultural**
14 **Disaster Assistance From**
15 **the Agricultural Disaster Relief**
16 **Trust Fund**

17 **SEC. 15101. SUPPLEMENTAL AGRICULTURAL DISASTER AS-**
18 **SISTANCE.**

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

1 **“TITLE IX—SUPPLEMENTAL AG-**
2 **RICULTURAL DISASTER AS-**
3 **SISTANCE**

4 **“SEC. 901. SUPPLEMENTAL AGRICULTURAL DISASTER AS-**
5 **SISTANCE.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) ACTUAL PRODUCTION HISTORY YIELD.—

8 The term ‘actual production history yield’ means the
9 weighted average of the actual production history for
10 each insurable commodity or noninsurable com-
11 modity, as calculated under the Federal Crop Insur-
12 ance Act (7 U.S.C. 1501 et seq.) or the noninsured
13 crop disaster assistance program, respectively.

14 “(2) ADJUSTED ACTUAL PRODUCTION HISTORY
15 YIELD.—The term ‘adjusted actual production his-
16 tory yield’ means—

17 “(A) in the case of an eligible producer on
18 a farm that has at least 4 years of actual pro-
19 duction history yields for an insurable com-
20 modity that are established other than pursuant
21 to section 508(g)(4)(B) of the Federal Crop In-
22 surance Act (7 U.S.C. 1508(g)(4)(B)), the ac-
23 tual production history for the eligible producer
24 without regard to any yields established under
25 that section;

1 “(B) in the case of an eligible producer on
2 a farm that has less than 4 years of actual pro-
3 duction history yields for an insurable com-
4 modity, of which 1 or more were established
5 pursuant to section 508(g)(4)(B) of that Act,
6 the actual production history for the eligible
7 producer as calculated without including the
8 lowest of the yields established pursuant to sec-
9 tion 508(g)(4)(B) of that Act; and

10 “(C) in all other cases, the actual produc-
11 tion history of the eligible producer on a farm.

12 “(3) ADJUSTED NONINSURED CROP DISASTER
13 ASSISTANCE PROGRAM YIELD.—The term ‘adjusted
14 noninsured crop disaster assistance program yield’
15 means—

16 “(A) in the case of an eligible producer on
17 a farm that has at least 4 years of production
18 history under the noninsured crop disaster as-
19 sistance program that are not replacement
20 yields, the noninsured crop disaster assistance
21 program yield without regard to any replace-
22 ment yields;

23 “(B) in the case of an eligible producer on
24 a farm that less than 4 years of production his-
25 tory under the noninsured crop disaster assist-

1 “(ii) any farm in which, during a cal-
2 endar year, the total loss of production of
3 the farm relating to weather is greater
4 than 50 percent of the normal production
5 of the farm, as determined by the Sec-
6 retary.

7 “(6) ELIGIBLE PRODUCER ON A FARM.—

8 “(A) IN GENERAL.—The term ‘eligible pro-
9 ducer on a farm’ means an individual or entity
10 described in subparagraph (B) that, as deter-
11 mined by the Secretary, assumes the production
12 and market risks associated with the agricul-
13 tural production of crops or livestock.

14 “(B) DESCRIPTION.—An individual or en-
15 tity referred to in subparagraph (A) is—

16 “(i) a citizen of the United States;

17 “(ii) a resident alien;

18 “(iii) a partnership of citizens of the
19 United States; or

20 “(iv) a corporation, limited liability
21 corporation, or other farm organizational
22 structure organized under State law.

23 “(7) FARM.—

24 “(A) IN GENERAL.—The term ‘farm’
25 means, in relation to an eligible producer on a

1 farm, the sum of all crop acreage in all counties
2 that is planted or intended to be planted for
3 harvest by the eligible producer.

4 “(B) AQUACULTURE.—In the case of
5 aquaculture, the term ‘farm’ means, in relation
6 to an eligible producer on a farm, all fish being
7 produced in all counties that are intended to be
8 harvested for sale by the eligible producer.

9 “(C) HONEY.—In the case of honey, the
10 term ‘farm’ means, in relation to an eligible
11 producer on a farm, all bees and beehives in all
12 counties that are intended to be harvested for
13 a honey crop by the eligible producer.

14 “(8) FARM-RAISED FISH.—The term ‘farm-
15 raised fish’ means any aquatic species that is propa-
16 gated and reared in a controlled environment.

17 “(9) INSURABLE COMMODITY.—The term ‘in-
18 surable commodity’ means an agricultural com-
19 modity (excluding livestock) for which the producer
20 on a farm is eligible to obtain a policy or plan of in-
21 surance under the Federal Crop Insurance Act (7
22 U.S.C. 1501 et seq.).

23 “(10) LIVESTOCK.—The term ‘livestock’ in-
24 cludes—

25 “(A) cattle (including dairy cattle);

1 “(B) bison;

2 “(C) poultry;

3 “(D) sheep;

4 “(E) swine;

5 “(F) horses; and

6 “(G) other livestock, as determined by the
7 Secretary.

8 “(11) NONINSURABLE COMMODITY.—The term
9 ‘noninsurable commodity’ means a crop for which
10 the eligible producers on a farm are eligible to ob-
11 tain assistance under the noninsured crop assistance
12 program.

13 “(12) NONINSURED CROP ASSISTANCE PRO-
14 GRAM.—The term ‘noninsured crop assistance pro-
15 gram’ means the program carried out under section
16 196 of the Federal Agriculture Improvement and
17 Reform Act of 1996 (7 U.S.C. 7333).

18 “(13) QUALIFYING NATURAL DISASTER DEC-
19 LARATION.—The term ‘qualifying natural disaster
20 declaration’ means a natural disaster declared by the
21 Secretary for production losses under section 321(a)
22 of the Consolidated Farm and Rural Development
23 Act (7 U.S.C. 1961(a)).

24 “(14) SECRETARY.—The term ‘Secretary’
25 means the Secretary of Agriculture.

1 “(15) SOCIALLY DISADVANTAGED FARMER OR
2 RANCHER.—The term ‘socially disadvantaged farmer
3 or rancher’ has the meaning given the term in sec-
4 tion 2501(e) of the Food, Agriculture, Conservation,
5 and Trade Act of 1990 (7 U.S.C. 2279(e)).

6 “(16) STATE.—The term ‘State’ means—

7 “(A) a State;

8 “(B) the District of Columbia;

9 “(C) the Commonwealth of Puerto Rico;

10 and

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

13 “(17) TRUST FUND.—The term ‘Trust Fund’
14 means the Agricultural Disaster Relief Trust Fund
15 established under section 902.

16 “(18) UNITED STATES.—The term ‘United
17 States’ when used in a geographical sense, means all
18 of the States.

19 “(b) SUPPLEMENTAL REVENUE ASSISTANCE PAY-
20 MENTS.—

21 “(1) IN GENERAL.—The Secretary shall use
22 such sums as are necessary from the Trust Fund to
23 make crop disaster assistance payments to eligible
24 producers on farms in disaster counties that have in-

1 curred crop production losses or crop quality losses,
2 or both, during the crop year.

3 “(2) AMOUNT.—

4 “(A) IN GENERAL.—Subject to subpara-
5 graph (B), the Secretary shall provide crop dis-
6 aster assistance payments under this section to
7 an eligible producer on a farm in an amount
8 equal to 60 percent of the difference between—

9 “(i) the disaster assistance program
10 guarantee, as described in paragraph (3);

11 and

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

14 “(B) LIMITATION.—The disaster assist-
15 ance program guarantee for a crop used to cal-
16 culate the payments for a farm under subpara-
17 graph (A)(i) may not be greater than 90 per-
18 cent of the sum of the expected revenue, as de-
19 scribed in paragraph (5) for each of the crops
20 on a farm, as determined by the Secretary.

21 “(3) SUPPLEMENTAL REVENUE ASSISTANCE
22 PROGRAM GUARANTEE.—

23 “(A) IN GENERAL.—Except as otherwise
24 provided in this paragraph, the supplemental

1 assistance program guarantee shall be the sum
2 obtained by adding—

3 “(i) for each insurable commodity on
4 the farm, 115 percent of the product ob-
5 tained by multiplying—

6 “(I) a payment rate for the com-
7 modity that is equal to the price elec-
8 tion for the commodity elected by the
9 eligible producer;

10 “(II) the payment acres for the
11 commodity that is equal to the num-
12 ber of acres planted, or prevented
13 from being planted, to the commodity;

14 “(III) the payment yield for the
15 commodity that is equal to the per-
16 centage of the crop insurance yield
17 elected by the producer of the higher
18 of—

19 “(aa) the adjusted actual
20 production history yield; or

21 “(bb) the counter-cyclical
22 program payment yield for each
23 crop; and

1 “(ii) for each noninsurable commodity
2 on a farm, 120 percent of the product ob-
3 tained by multiplying—

4 “(I) a payment rate for the com-
5 modity that is equal to 100 percent of
6 the noninsured crop assistance pro-
7 gram established price for the com-
8 modity;

9 “(II) the payment acres for the
10 commodity that is equal to the num-
11 ber of acres planted, or prevented
12 from being planted, to the commodity;
13 and

14 “(III) the payment yield for the
15 commodity that is equal to the higher
16 of—

17 “(aa) the adjusted non-
18 insured crop assistance program
19 yield guarantee; or

20 “(bb) the counter-cyclical
21 program payment yield for each
22 crop.

23 “(B) ADJUSTMENT INSURANCE GUAR-
24 ANTEE.—Notwithstanding subparagraph (A), in
25 the case of an insurable commodity for which a

1 plan of insurance provides for an adjustment in
2 the guarantee, such as in the case of prevented
3 planting, the adjusted insurance guarantee shall
4 be the basis for determining the disaster assist-
5 ance program guarantee for the insurable com-
6 modity.

7 “(C) ADJUSTED ASSISTANCE LEVEL.—
8 Notwithstanding subparagraph (A), in the case
9 of a noninsurable commodity for which the non-
10 insured crop assistance program provides for an
11 adjustment in the level of assistance, such as in
12 the case of unharvested crops, the adjusted as-
13 sistance level shall be the basis for determining
14 the disaster assistance program guarantee for
15 the noninsurable commodity.

16 “(D) EQUITABLE TREATMENT FOR NON-
17 YIELD BASED POLICIES.—The Secretary shall
18 establish equitable treatment for non-yield
19 based policies and plans of insurance, such as
20 the Adjusted Gross Revenue Lite insurance pro-
21 gram.

22 “(4) FARM REVENUE.—

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

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

4 “(I) the actual crop acreage har-
5 vested by an eligible producer on a
6 farm;

7 “(II) the estimated actual yield
8 of the crop production; and

9 “(III) subject to subparagraphs
10 (B) and (C), to the extent practicable,
11 the national average market price re-
12 ceived for the marketing year, as de-
13 termined by the Secretary;

14 “(ii) 15 percent of amount of any di-
15 rect payments made to the producer under
16 sections 1103 and 1303 of the Food, Con-
17 servation, and Energy Act of 2008 or suc-
18 cessor sections;

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

1 “(iv) the total amount of any loan de-
2 ficiency payments, marketing loan gains,
3 and marketing certificate gains made to
4 the producer under subtitles B and C of
5 the Food, Conservation, and Energy Act of
6 2008 or successor subtitles;

7 “(v) the amount of payments for pre-
8 vented planting on a farm;

9 “(vi) the amount of crop insurance in-
10 demnities received by an eligible producer
11 on a farm for each crop on a farm;

12 “(vii) the amount of payments an eli-
13 gible producer on a farm received under
14 the noninsured crop assistance program for
15 each crop on a farm; and

16 “(viii) the value of any other natural
17 disaster assistance payments provided by
18 the Federal Government to an eligible pro-
19 ducer on a farm for each crop on a farm
20 for the same loss for which the eligible pro-
21 ducer is seeking assistance.

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

1 “(i) to reflect the average quality dis-
2 counts applied to the local or regional mar-
3 ket price of a crop or mechanically har-
4 vested forage due to a reduction in the in-
5 trinsic characteristics of the production re-
6 sulting from adverse weather, as deter-
7 mined annually by the State office of the
8 Farm Service Agency; and

9 “(ii) to account for a crop the value of
10 which is reduced due to excess moisture re-
11 sulting from a disaster-related condition.

12 “(C) MAXIMUM AMOUNT FOR CERTAIN
13 CROPS.—With respect to a crop for which an el-
14 igible producer on a farm receives assistance
15 under the noninsured crop assistance program,
16 the national average market price received dur-
17 ing the marketing year shall be an amount not
18 more than 100 percent of the price of the crop
19 established under the noninsured crop assist-
20 ance program.

21 “(5) EXPECTED REVENUE.—The expected rev-
22 enue for each crop on a farm shall equal the sum
23 obtained by adding—

24 “(A) the product obtained by multi-
25 plying—

1 “(i) the greatest of—

2 “(I) the adjusted actual produc-
3 tion history yield of the eligible pro-
4 ducer on a farm; and

5 “(II) the counter-cyclical pro-
6 gram payment yield;

7 “(ii) the acreage planted or prevented
8 from being planted for each crop; and

9 “(iii) 100 percent of the insurance
10 price guarantee; and

11 “(B) the product obtained by multi-
12 plying—

13 “(i) 100 percent of the adjusted non-
14 insured crop assistance program yield; and

15 “(ii) 100 percent of the noninsured
16 crop assistance program price for each of
17 the crops on a farm.

18 “(c) LIVESTOCK INDEMNITY PAYMENTS.—

19 “(1) PAYMENTS.—The Secretary shall use such
20 sums as are necessary from the Trust Fund to make
21 livestock indemnity payments to eligible producers
22 on farms that have incurred livestock death losses in
23 excess of the normal mortality due to adverse weath-
24 er, as determined by the Secretary, during the cal-
25 endar year, including losses due to hurricanes,

1 floods, blizzards, disease, wildfires, extreme heat,
2 and extreme cold.

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

9 “(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

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

11 “(A) COVERED LIVESTOCK.—

12 “(i) IN GENERAL.—The term ‘covered
13 livestock’ means livestock of an eligible
14 livestock producer that, during the 60 days
15 prior to the beginning date of a qualifying
16 drought or fire condition, as determined by
17 the Secretary, the eligible livestock pro-
18 ducer—

19 “(I) owned;

20 “(II) leased;

21 “(III) purchased;

22 “(IV) entered into a contract to
23 purchase;

24 “(V) is a contract grower; or

1 “(VI) sold or otherwise disposed
2 of due to qualifying drought condi-
3 tions during—

4 “(aa) the current production
5 year; or

6 “(bb) subject to paragraph
7 (3)(B)(ii), 1 or both of the 2 pro-
8 duction years immediately pre-
9 ceding the current production
10 year.

11 “(ii) EXCLUSION.—The term ‘covered
12 livestock’ does not include livestock that
13 were or would have been in a feedlot, on
14 the beginning date of the qualifying
15 drought or fire condition, as a part of the
16 normal business operation of the eligible
17 livestock producer, as determined by the
18 Secretary.

19 “(B) DROUGHT MONITOR.—The term
20 ‘drought monitor’ means a system for
21 classifying drought severity according to a
22 range of abnormally dry to exceptional drought,
23 as defined by the Secretary.

24 “(C) ELIGIBLE LIVESTOCK PRODUCER.—

1 “(i) IN GENERAL.—The term ‘eligible
2 livestock producer’ means an eligible pro-
3 ducer on a farm that—

4 “(I) is an owner, cash or share
5 lessee, or contract grower of covered
6 livestock that provides the pastureland
7 or grazing land, including cash-leased
8 pastureland or grazing land, for the
9 livestock;

10 “(II) provides the pastureland or
11 grazing land for covered livestock, in-
12 cluding cash-leased pastureland or
13 grazing land that is physically located
14 in a county affected by drought;

15 “(III) certifies grazing loss; and

16 “(IV) meets all other eligibility
17 requirements established under this
18 subsection.

19 “(ii) EXCLUSION.—The term ‘eligible
20 livestock producer’ does not include an
21 owner, cash or share lessee, or contract
22 grower of livestock that rents or leases
23 pastureland or grazing land owned by an-
24 other person on a rate-of-gain basis.

1 “(D) NORMAL CARRYING CAPACITY.—The
2 term ‘normal carrying capacity’, with respect to
3 each type of grazing land or pastureland in a
4 county, means the normal carrying capacity, as
5 determined under paragraph (3)(D)(i), that
6 would be expected from the grazing land or
7 pastureland for livestock during the normal
8 grazing period, in the absence of a drought or
9 fire that diminishes the production of the graz-
10 ing land or pastureland.

11 “(E) NORMAL GRAZING PERIOD.—The
12 term ‘normal grazing period’, with respect to a
13 county, means the normal grazing period during
14 the calendar year for the county, as determined
15 under paragraph (3)(D)(i).

16 “(2) PROGRAM.—The Secretary shall use such
17 sums as are necessary from the Trust Fund to pro-
18 vide compensation for losses to eligible livestock pro-
19 ducers due to grazing losses for covered livestock
20 due to—

21 “(A) a drought condition, as described in
22 paragraph (3); or

23 “(B) fire, as described in paragraph (4).

24 “(3) ASSISTANCE FOR LOSSES DUE TO
25 DROUGHT CONDITIONS.—

1 “(A) ELIGIBLE LOSSES.—

2 “(i) IN GENERAL.—An eligible live-
3 stock producer may receive assistance
4 under this subsection only for grazing
5 losses for covered livestock that occur on
6 land that—

7 “(I) is native or improved
8 pastureland with permanent vegeta-
9 tive cover; or

10 “(II) is planted to a crop planted
11 specifically for the purpose of pro-
12 viding grazing for covered livestock.

13 “(ii) EXCLUSIONS.—An eligible live-
14 stock producer may not receive assistance
15 under this subsection for grazing losses
16 that occur on land used for haying or graz-
17 ing under the conservation reserve pro-
18 gram established under subchapter B of
19 chapter 1 of subtitle D of title XII of the
20 Food Security Act of 1985 (16 U.S.C.
21 3831 et seq.).

22 “(B) MONTHLY PAYMENT RATE.—

23 “(i) IN GENERAL.—Except as pro-
24 vided in clause (ii), the payment rate for
25 assistance under this paragraph for 1

1 month shall, in the case of drought, be
2 equal to 60 percent of the lesser of—

3 “(I) the monthly feed cost for all
4 covered livestock owned or leased by
5 the eligible livestock producer, as de-
6 termined under subparagraph (C); or

7 “(II) the monthly feed cost cal-
8 culated by using the normal carrying
9 capacity of the eligible grazing land of
10 the eligible livestock producer.

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

21 “(C) MONTHLY FEED COST.—

22 “(i) IN GENERAL.—The monthly feed
23 cost shall equal the product obtained by
24 multiplying—

25 “(I) 30 days;

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

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

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

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

12 “(II) in the case of any other
13 type of weight of livestock, an amount
14 determined by the Secretary that rep-
15 represents the average number of pounds
16 of corn per day necessary to feed the
17 livestock.

18 “(iii) CORN PRICE PER POUND.—For
19 purposes of clause (i)(II), the corn price
20 per pound shall equal the quotient ob-
21 tained by dividing—

22 “(I) the higher of—

23 “(aa) the national average
24 corn price per bushel for the 12-
25 month period immediately pre-

1 ceding March 1 of the year for
2 which the disaster assistance is
3 calculated; or

4 “(bb) the national average
5 corn price per bushel for the 24-
6 month period immediately pre-
7 ceding that March 1; by

8 “(II) 56.

9 “(D) NORMAL GRAZING PERIOD AND
10 DROUGHT MONITOR INTENSITY.—

11 “(i) FSA COUNTY COMMITTEE DE-
12 TERMINATIONS.—

13 “(I) IN GENERAL.—The Sec-
14 retary shall determine the normal car-
15 rying capacity and normal grazing pe-
16 riod for each type of grazing land or
17 pastureland in the county served by
18 the applicable committee.

19 “(II) CHANGES.—No change to
20 the normal carrying capacity or nor-
21 mal grazing period established for a
22 county under subclause (I) shall be
23 made unless the change is requested
24 by the appropriate State and county
25 Farm Service Agency committees.

1 “(ii) DROUGHT INTENSITY.—

2 “(I) D2.—An eligible livestock
3 producer that owns or leases grazing
4 land or pastureland that is physically
5 located in a county that is rated by
6 the U.S. Drought Monitor as having a
7 D2 (severe drought) intensity in any
8 area of the county for at least 8 con-
9 secutive weeks during the normal
10 grazing period for the county, as de-
11 termined by the Secretary, shall be el-
12 igible to receive assistance under this
13 paragraph in an amount equal to 1
14 monthly payment using the monthly
15 payment rate determined under sub-
16 paragraph (B).

17 “(II) D3.—An eligible livestock
18 producer that owns or leases grazing
19 land or pastureland that is physically
20 located in a county that is rated by
21 the U.S. Drought Monitor as having
22 at least a D3 (extreme drought) in-
23 tensity in any area of the county at
24 any time during the normal grazing
25 period for the county, as determined

1 by the Secretary, shall be eligible to
2 receive assistance under this para-
3 graph—

4 “(aa) in an amount equal to
5 2 monthly payments using the
6 monthly payment rate deter-
7 mined under subparagraph (B);
8 or

9 “(bb) if the county is rated
10 as having a D3 (extreme
11 drought) intensity in any area of
12 the county for at least 4 weeks
13 during the normal grazing period
14 for the county, or is rated as
15 having a D4 (exceptional
16 drought) intensity in any area of
17 the county at any time during
18 the normal grazing period, in an
19 amount equal to 3 monthly pay-
20 ments using the monthly pay-
21 ment rate determined under sub-
22 paragraph (B).

23 “(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON
24 PUBLIC MANAGED LAND.—

1 “(A) IN GENERAL.—An eligible livestock
2 producer may receive assistance under this
3 paragraph only if—

4 “(i) the grazing losses occur on range-
5 land that is managed by a Federal agency;
6 and

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

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

17 “(C) PAYMENT DURATION.—

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

22 “(I) beginning on the date on
23 which the Federal agency excludes the
24 eligible livestock producer from using

1 the managed rangeland for grazing;
2 and

3 “(II) ending on the last day of
4 the Federal lease of the eligible live-
5 stock producer.

6 “(ii) LIMITATION.—An eligible live-
7 stock producer may only receive assistance
8 under this paragraph for losses that occur
9 on not more than 180 days per year.

10 “(5) MINIMUM RISK MANAGEMENT PURCHASE
11 REQUIREMENTS.—

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

16 “(i) obtained a policy or plan of insur-
17 ance under the Federal Crop Insurance
18 Act (7 U.S.C. 1501 et seq.) for the grazing
19 land incurring the losses for which assist-
20 ance is being requested; or

21 “(ii) filed the required paperwork, and
22 paid the administrative fee by the applica-
23 ble State filing deadline, for the non-
24 insured crop assistance program for the

1 grazing land incurring the losses for which
2 assistance is being requested.

3 “(B) WAIVER FOR SOCIALLY DISADVAN-
4 TAGED, LIMITED RESOURCE, OR BEGINNING
5 FARMER OR RANCHER.—In the case of an eligi-
6 ble livestock producer that is a socially dis-
7 advantaged farmer or rancher or limited re-
8 source or beginning farmer or rancher, as de-
9 termined by the Secretary, the Secretary may—

10 “(i) waive subparagraph (A); and

11 “(ii) provide disaster assistance under
12 this section at a level that the Secretary
13 determines to be equitable and appro-
14 priate.

15 “(C) WAIVER FOR 2008 CALENDAR YEAR.—
16 In the case of an eligible livestock producer that
17 suffered losses on grazing land during the 2008
18 calendar year but does not meet the require-
19 ments of subparagraph (A), the Secretary shall
20 waive subparagraph (A) if the eligible livestock
21 producer pays a fee in an amount equal to the
22 applicable noninsured crop assistance program
23 fee or catastrophic risk protection plan fee re-
24 quired under subparagraph (A) to the Secretary

1 not later than 90 days after the date of enact-
2 ment of this subtitle.

3 “(D) EQUITABLE RELIEF.—

4 “(i) IN GENERAL.—The Secretary
5 may provide equitable relief to an eligible
6 livestock producer that is otherwise ineli-
7 gible or unintentionally fails to meet the
8 requirements of subparagraph (A) for the
9 grazing land incurring the loss on a case-
10 by-case basis, as determined by the Sec-
11 retary.

12 “(ii) 2008 CALENDAR YEAR.—In the
13 case of an eligible livestock producer that
14 suffered losses on grazing land during the
15 2008 calendar year, the Secretary shall
16 take special consideration to provide equi-
17 table relief in cases in which the eligible
18 livestock producer failed to meet the re-
19 quirements of subparagraph (A) due to the
20 enactment of this title after the closing
21 date of sales periods for crop insurance
22 under the Federal Crop Insurance Act (7
23 U.S.C. 1501 et seq.) and the noninsured
24 crop assistance program.

25 “(6) NO DUPLICATIVE PAYMENTS.—

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

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

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

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

23 “(2) USE OF FUNDS.—Funds made available
24 under this subsection shall be used to reduce losses

1 caused by feed or water shortages, disease, or other
2 factors as determined by the Secretary.

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

6 “(f) TREE ASSISTANCE PROGRAM.—

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

8 “(A) ELIGIBLE ORCHARDIST.—The term
9 ‘eligible orchardist’ means a person that pro-
10 duces annual crops from trees for commercial
11 purposes.

12 “(B) NATURAL DISASTER.—The term ‘nat-
13 ural disaster’ means plant disease, insect infes-
14 tation, drought, fire, freeze, flood, earthquake,
15 lightning, or other occurrence, as determined by
16 the Secretary.

17 “(C) NURSERY TREE GROWER.—The term
18 ‘nursery tree grower’ means a person who pro-
19 duces nursery, ornamental, fruit, nut, or Christ-
20 mas trees for commercial sale, as determined by
21 the Secretary.

22 “(D) TREE.—The term ‘tree’ includes a
23 tree, bush, and vine.

24 “(2) ELIGIBILITY.—

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

3 “ (i) under paragraph (3) to eligible
4 orchardists and nursery tree growers that
5 planted trees for commercial purposes but
6 lost the trees as a result of a natural dis-
7 aster, as determined by the Secretary; and

8 “ (ii) under paragraph (3)(B) to eligi-
9 ble orchardists and nursery tree growers
10 that have a production history for commer-
11 cial purposes on planted or existing trees
12 but lost the trees as a result of a natural
13 disaster, as determined by the Secretary.

14 “(B) LIMITATION.—An eligible orchardist
15 or nursery tree grower shall qualify for assist-
16 ance under subparagraph (A) only if the tree
17 mortality of the eligible orchardist or nursery
18 tree grower, as a result of damaging weather or
19 related condition, exceeds 15 percent (adjusted
20 for normal mortality).

21 “(3) ASSISTANCE.—Subject to paragraph (4),
22 the assistance provided by the Secretary to eligible
23 orchardists and nursery tree growers for losses de-
24 scribed in paragraph (2) shall consist of—

1 “(A)(i) reimbursement of 70 percent of the
2 cost of replanting trees lost due to a natural
3 disaster, as determined by the Secretary, in ex-
4 cess of 15 percent mortality (adjusted for nor-
5 mal mortality); or

6 “(ii) at the option of the Secretary, suffi-
7 cient seedlings to reestablish a stand; and

8 “(B) reimbursement of 50 percent of the
9 cost of pruning, removal, and other costs in-
10 curred by an eligible orchardist or nursery tree
11 grower to salvage existing trees or, in the case
12 of tree mortality, to prepare the land to replant
13 trees as a result of damage or tree mortality
14 due to a natural disaster, as determined by the
15 Secretary, in excess of 15 percent damage or
16 mortality (adjusted for normal tree damage and
17 mortality).

18 “(4) LIMITATIONS ON ASSISTANCE.—

19 “(A) DEFINITIONS OF LEGAL ENTITY AND
20 PERSON.—In this paragraph, the terms ‘legal
21 entity’ and ‘person’ have the meaning given
22 those terms in section 1001(a) of the Food Se-
23 curity Act of 1985 (7 U.S.C. 1308(a) (as
24 amended by section 1603 of the Food, Con-
25 servation, and Energy Act of 2008).

1 “(B) in the case of each noninsurable com-
2 modity of the eligible producers on the farm,
3 did not file the required paperwork, and pay the
4 administrative fee by the applicable State filing
5 deadline, for the noninsured crop assistance
6 program.

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

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

21 “(A) waive paragraph (1); and

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

1 “(4) WAIVER FOR 2008 CROP YEAR.—In the
2 case of an eligible producer that suffered losses in
3 an insurable commodity or noninsurable commodity
4 during the 2008 crop year but does not meet the re-
5 quirements of paragraph (1), the Secretary shall
6 waive paragraph (1) if the eligible producer pays a
7 fee in an amount equal to the applicable noninsured
8 crop assistance program fee or catastrophic risk pro-
9 tection plan fee required under paragraph (1) to the
10 Secretary not later than 90 days after the date of
11 enactment of this subtitle.

12 “(5) EQUITABLE RELIEF.—

13 “(A) IN GENERAL.—The Secretary may
14 provide equitable relief to eligible producers on
15 a farm that are otherwise ineligible or uninten-
16 tionally fail to meet the requirements of para-
17 graph (1) for 1 or more crops on a farm on a
18 case-by-case basis, as determined by the Sec-
19 retary.

20 “(B) 2008 CROP YEAR.—In the case of eli-
21 gible producers on a farm that suffered losses
22 in an insurable commodity or noninsurable com-
23 modity during the 2008 crop year, the Sec-
24 retary shall take special consideration to pro-
25 vide equitable relief in cases in which the eligi-

1 ble producers failed to meet the requirements of
2 paragraph (1) due to the enactment of this title
3 after the closing date of sales periods for crop
4 insurance under the Federal Crop Insurance
5 Act (7 U.S.C. 1501 et seq.) and the noninsured
6 crop assistance program.

7 “(h) PAYMENT LIMITATIONS.—

8 “(1) DEFINITIONS OF LEGAL ENTITY AND PER-
9 SON.—In this subsection, the terms ‘legal entity’ and
10 ‘person’ have the meaning given those terms in sec-
11 tion 1001(a) of the Food Security Act of 1985 (7
12 U.S.C. 1308(a) (as amended by section 1603 of the
13 Food, Conservation, and Energy Act of 2008).

14 “(2) AMOUNT.—The total amount of disaster
15 assistance payments received, directly or indirectly,
16 by a person or legal entity (excluding a joint venture
17 or general partnership) under this section (excluding
18 payments received under subsection (f)) may not ex-
19 ceed \$100,000 for any crop year.

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

24 “(4) DIRECT CONTRIBUTION.—Subsections (e)
25 and (f) of section 1001 of the Food Security Act of

1 1985 (7 U.S.C. 1308) or any successor provisions
2 relating to direct attribution shall apply with respect
3 to assistance provided under this section.

4 “(i) PERIOD OF EFFECTIVENESS.—This section shall
5 be effective only for losses that are incurred as the result
6 of a disaster, adverse weather, or other environmental con-
7 dition that occurs on or before September 30, 2011, as
8 determined by the Secretary.

9 “(j) NO DUPLICATIVE PAYMENTS.—In implementing
10 any other program which makes disaster assistance pay-
11 ments (except for indemnities made under the Federal
12 Crop Insurance Act (7 U.S.C. 1501 et seq.)) and section
13 196 of the Federal Agriculture Improvement and Reform
14 Act of 1996), the Secretary shall prevent duplicative pay-
15 ments with respect to the same loss for which a person
16 receives a payment under subsections (b), (c), (d), (e), or
17 (f).

18 **“SEC. 902. AGRICULTURAL DISASTER RELIEF TRUST FUND.**

19 “(a) CREATION OF TRUST FUND.—There is estab-
20 lished in the Treasury of the United States a trust fund
21 to be known as the ‘Agricultural Disaster Relief Trust
22 Fund’, consisting of such amounts as may be appropriated
23 or credited to such Trust Fund as provided in this section.

24 “(b) TRANSFER TO TRUST FUND.—

1 “(1) IN GENERAL.—There are appropriated to
2 the Agricultural Disaster Relief Trust Fund
3 amounts equivalent to 3.08 percent of the amounts
4 received in the general fund of the Treasury of the
5 United States during fiscal years 2008 through
6 2011 attributable to the duties collected on articles
7 entered, or withdrawn from warehouse, for consump-
8 tion under the Harmonized Tariff Schedule of the
9 United States.

10 “(2) AMOUNTS BASED ON ESTIMATES.—The
11 amounts appropriated under this section shall be
12 transferred at least monthly from the general fund
13 of the Treasury of the United States to the Agricul-
14 tural Disaster Relief Trust Fund on the basis of es-
15 timates made by the Secretary of the Treasury.
16 Proper adjustments shall be made in the amounts
17 subsequently transferred to the extent prior esti-
18 mates were in excess of or less than the amounts re-
19 quired to be transferred.

20 “(3) LIMITATION ON TRANSFERS TO AGRICUL-
21 TURAL DISASTER RELIEF TRUST FUND.—No amount
22 may be appropriated to the Agricultural Disaster
23 Relief Trust Fund on and after the date of any ex-
24 penditure from the Agricultural Disaster Relief
25 Trust Fund which is not permitted by this section.

1 The determination of whether an expenditure is so
2 permitted shall be made without regard to—

3 “(A) any provision of law which is not con-
4 tained or referenced in this title or in a revenue
5 Act, and

6 “(B) whether such provision of law is a
7 subsequently enacted provision or directly or in-
8 directly seeks to waive the application of this
9 paragraph.

10 “(c) ADMINISTRATION.—

11 “(1) REPORTS.—The Secretary of the Treasury
12 shall be the trustee of the Agricultural Disaster Re-
13 lief Trust Fund and shall submit an annual report
14 to Congress each year on the financial condition and
15 the results of the operations of such Trust Fund
16 during the preceding fiscal year and on its expected
17 condition and operations during the 4 fiscal years
18 succeeding such fiscal year. Such report shall be
19 printed as a House document of the session of Con-
20 gress to which the report is made.

21 “(2) INVESTMENT.—

22 “(A) IN GENERAL.—The Secretary of the
23 Treasury shall invest such portion of the Agri-
24 cultural Disaster Relief Trust Fund as is not in
25 his judgment required to meet current with-

1 drawals. Such investments may be made only in
2 interest bearing obligations of the United
3 States. For such purpose, such obligations may
4 be acquired—

5 “(i) on original issue at the issue
6 price, or

7 “(ii) by purchase of outstanding obli-
8 gations at the market price.

9 “(B) SALE OF OBLIGATIONS.—Any obliga-
10 tion acquired by the Agricultural Disaster Re-
11 lief Trust Fund may be sold by the Secretary
12 of the Treasury at the market price.

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

19 “(d) EXPENDITURES FROM TRUST FUND.—
20 Amounts in the Agricultural Disaster Relief Trust Fund
21 shall be available for the purposes of making expenditures
22 to meet those obligations of the United States incurred
23 under section 901 or section 531 of the Federal Crop In-
24 surance Act (as such sections are in effect on the date

1 of the enactment of the Food, Conservation, and Energy
2 Act of 2008).

3 “(e) AUTHORITY TO BORROW.—

4 “(1) IN GENERAL.—There are authorized to be
5 appropriated, and are appropriated, to the Agricul-
6 tural Disaster Relief Trust Fund, as repayable ad-
7 vances, such sums as may be necessary to carry out
8 the purposes of such Trust Fund.

9 “(2) REPAYMENT OF ADVANCES.—

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

16 “(B) RATE OF INTEREST.—Interest on ad-
17 vances made pursuant to this subsection shall
18 be—

19 “(i) at a rate determined by the Sec-
20 retary of the Treasury (as of the close of
21 the calendar month preceding the month in
22 which the advance is made) to be equal to
23 the current average market yield on out-
24 standing marketable obligations of the
25 United States with remaining periods to

1 maturity comparable to the anticipated pe-
2 riod during which the advance will be out-
3 standing, and

4 “(ii) compounded annually.

5 **“SEC. 903. JURISDICTION.**

6 “Legislation in the Senate of the United States
7 amending section 901 or 902 shall be referred to the Com-
8 mittee on Finance of the Senate.”.

9 (b) **TRANSITION.**—For purposes of the 2008 crop
10 year, the Secretary shall carry out subsections (f)(4) and
11 (h) of section 901 of the Trade Act of 1974 (as added
12 by subsection (a)) in accordance with the terms and condi-
13 tions of sections 1001 through 1001D of the Food Secu-
14 rity Act of 1985 (16 U.S.C. 1308 et seq.), as in effect
15 on September 30, 2007.

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

“TITLE IX—SUPPLEMENTAL AGRICULTURAL DISASTER
ASSISTANCE

“Sec. 901. Supplemental agricultural disaster assistance.

“Sec. 902. Agricultural Disaster Relief Trust Fund.

“Sec. 903. Jurisdiction.”.

1 **Subtitle B—Revenue Provisions for**
2 **Agriculture Programs**

3 **SEC. 15201. CUSTOMS USER FEES.**

4 (a) IN GENERAL.—Section 13031(j)(3)(A) of the
5 Consolidated Omnibus Budget Reconciliation Act of 1985
6 (19 U.S.C. 58c(j)(3)(A)) is amended by striking “Decem-
7 ber 27, 2014” and inserting “November 14, 2017”.

8 (b) OTHER FEES.—Section 13031(j)(3)(B)(i) of the
9 Consolidated Omnibus Budget Reconciliation Act of 1985
10 (19 U.S.C. 58c(j)(3)(B)(i)) is amended by striking “De-
11 cember 27, 2014” and inserting “September 30, 2017”.

12 (c) TIME FOR REMITTING CERTAIN COBRA FEES.—
13 Notwithstanding any other provision of law, any fees au-
14 thorized under paragraphs (1) through (8) of section
15 13031(a) of the Consolidated Omnibus Budget Reconcili-
16 ation Act of 1985 (19 U.S.C. 58c(a) (1) through (8)) with
17 respect to customs services provided on or after July 1,
18 2017, and before September 20, 2017, shall be paid not
19 later than September 25, 2017.

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

22 (1) IN GENERAL.—Notwithstanding any other
23 provision of law, any fees authorized under para-
24 graphs (9) and (10) of section 13031(a) of the Con-
25 solidated Omnibus Budget Reconciliation Act of

1 1985 (19 U.S.C. 58c(a) (9) and (10)) with respect
2 to processing merchandise entered on or after Octo-
3 ber 1, 2017, and before November 15, 2017, shall
4 be paid not later than September 25, 2017, in an
5 amount equivalent to the amount of such fees paid
6 by the person responsible for such fees with respect
7 to merchandise entered on or after October 1, 2016,
8 and before November 15, 2016, as determined by
9 the Secretary of the Treasury.

10 (2) RECONCILIATION OF MERCHANDISE PROC-
11 ESSING FEES.—Not later than December 15, 2017,
12 the Secretary of the Treasury shall reconcile the fees
13 paid pursuant to paragraph (1) with the fees for
14 services actually provided on or after October 1,
15 2017, and before November 15, 2017, and shall re-
16 fund with interest any overpayment of such fees and
17 make proper adjustments with respect to any under-
18 payment of such fees. No interest may be assessed
19 with respect to any such underpayment that was
20 based on the amount of fees paid for merchandise
21 entered on or after October 1, 2016, and before No-
22 vember 15, 2016.

1 **SEC. 15202. TIME FOR PAYMENT OF CORPORATE ESTI-**
2 **MATED TAXES.**

3 The percentage under subparagraph (B) of section
4 401(1) of the Tax Increase Prevention and Reconciliation
5 Act of 2005 in effect on the date of the enactment of this
6 Act is increased by 7.75 percentage points.

7 **Subtitle C—Tax Provisions**

8 **PART I—CONSERVATION**

9 **Subpart A—Land and Species Preservation**

10 **Provisions**

11 **SEC. 15301. EXCLUSION OF CONSERVATION RESERVE PRO-**
12 **GRAM PAYMENTS FROM SECA TAX FOR CER-**
13 **TAIN INDIVIDUALS.**

14 (a) INTERNAL REVENUE CODE.—Section 1402(a)(1)
15 (defining net earnings from self-employment) is amended
16 by inserting “, and including payments under section
17 1233(2) of the Food Security Act of 1985 (16 U.S.C.
18 3833(2)) to individuals receiving benefits under section
19 202 or 223 of the Social Security Act” after “crop
20 shares”.

21 (b) SOCIAL SECURITY ACT.—Section 211(a)(1) of
22 the Social Security Act is amended by inserting “, and
23 including payments under section 1233(2) of the Food Se-
24 curity Act of 1985 (16 U.S.C. 3833(2)) to individuals re-
25 ceiving benefits under section 202 or 223” after “crop
26 shares”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to payments made after December
3 31, 2007.

4 **SEC. 15302. TWO-YEAR EXTENSION OF SPECIAL RULE EN-**
5 **COURAGING CONTRIBUTIONS OF CAPITAL**
6 **GAIN REAL PROPERTY FOR CONSERVATION**
7 **PURPOSES.**

8 (a) IN GENERAL.—

9 (1) INDIVIDUALS.—Section 170(b)(1)(E)(vi)
10 (relating to termination) is amended by striking
11 “December 31, 2007” and inserting “December 31,
12 2009”.

13 (2) CORPORATIONS.—Section 170(b)(2)(B)(iii)
14 (relating to termination) is amended by striking
15 “December 31, 2007” and inserting “December 31,
16 2009”.

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

20 **SEC. 15303. DEDUCTION FOR ENDANGERED SPECIES RE-**
21 **COVERY EXPENDITURES.**

22 (a) DEDUCTION FOR ENDANGERED SPECIES RECOV-
23 ERY EXPENDITURES.—

24 (1) IN GENERAL.—Paragraph (1) of section
25 175(c) (relating to definitions) is amended by insert-

1 ing after the first sentence the following new sen-
2 tence: “Such term shall include expenditures paid or
3 incurred for the purpose of achieving site-specific
4 management actions recommended in recovery plans
5 approved pursuant to the Endangered Species Act of
6 1973.”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) Section 175 is amended by inserting “,
9 or for endangered species recovery” after “pre-
10 vention of erosion of land used in farming”
11 each place it appears in subsections (a) and (c).

12 (B) The heading of section 175 is amended
13 by inserting “; **ENDANGERED SPECIES RE-**
14 **COVERY EXPENDITURES**” before the period.

15 (C) The item relating to section 175 in the
16 table of sections for part VI of subchapter B of
17 chapter 1 is amended by inserting “; endan-
18 gered species recovery expenditures” before the
19 period.

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

22 (1) in the heading of subparagraph (A), by in-
23 serting “OR ENDANGERED SPECIES RECOVERY
24 PLAN” after “CONSERVATION PLAN”, and

1 (2) in subparagraph (A)(i), by inserting “or the
2 recovery plan approved pursuant to the Endangered
3 Species Act of 1973” after “Department of Agri-
4 culture”.

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

8 **Subpart B—Timber Provisions**

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

11 (a) IN GENERAL.—Section 1201 (relating to alter-
12 native tax for corporations) is amended by redesignating
13 subsection (b) as subsection (c) and by adding after sub-
14 section (a) the following new subsection:

15 “(b) SPECIAL RATE FOR QUALIFIED TIMBER
16 GAINS.—

17 “(1) IN GENERAL.—If, for any taxable year
18 ending after the date of the enactment of the Food,
19 Conservation, and Energy Act of 2008 and begin-
20 ning on or before the date which is 1 year after such
21 date, a corporation has both a net capital gain and
22 qualified timber gain—

23 “(A) subsection (a) shall apply to such cor-
24 poration for the taxable year without regard to

1 whether the applicable tax rate exceeds 35 per-
2 cent, and

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

5 “(i) 15 percent of the least of—

6 “(I) qualified timber gain,

7 “(II) net capital gain, or

8 “(III) taxable income, plus

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

13 “(2) QUALIFIED TIMBER GAIN.—For purposes
14 of this section, the term ‘qualified timber gain’
15 means, with respect to any taxpayer for any taxable
16 year, the excess (if any) of—

17 “(A) the sum of the taxpayer’s gains de-
18 scribed in subsections (a) and (b) of section 631
19 for such year, over

20 “(B) the sum of the taxpayer’s losses de-
21 scribed in such subsections for such year.

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

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

7 “(A) in the case of the taxable year includ-
8 ing the date of the enactment of the Food, Con-
9 servation, and Energy Act of 2008, the portion
10 of the year after such date, and

11 “(B) in the case of the taxable year includ-
12 ing the date which is 1 year after such date of
13 enactment, the portion of the year on or before
14 such later date.”.

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

17 “(4) MAXIMUM RATE OF TAX ON QUALIFIED
18 TIMBER GAIN OF CORPORATIONS.—In the case of
19 any taxable year to which section 1201(b) applies,
20 the amount determined under clause (i) of subpara-
21 graph (B) shall not exceed the sum of—

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

1 trust, the cutting of which is provided
2 by a taxable REIT subsidiary of the
3 real estate investment trust;

4 “(II) recognized under section
5 631(b); or

6 “(III) income which would con-
7 stitute gain under subclause (I) or
8 (II) but for the failure to meet the 1-
9 year holding period requirement.

10 “(ii) SPECIAL RULES.—

11 “(I) For purposes of this subtitle,
12 cut timber, the gain from which is
13 recognized by a real estate investment
14 trust pursuant to an election under
15 section 631(a) described in clause
16 (i)(I) or so much of clause (i)(III) as
17 relates to clause (i)(I), shall be
18 deemed to be sold to the taxable
19 REIT subsidiary of the real estate in-
20 vestment trust on the first day of the
21 taxable year.

22 “(II) For purposes of this sub-
23 title, income described in this sub-
24 paragraph shall not be treated as gain

1 from the sale of property described in
2 section 1221(a)(1).

3 “(iii) TERMINATION.—This subpara-
4 graph shall not apply to dispositions after
5 the termination date.”.

6 (b) TERMINATION DATE.—Subsection (c) of section
7 856 is amended by adding at the end the following new
8 paragraph:

9 “(8) TERMINATION DATE.—For purposes of
10 this subsection, the term ‘termination date’ means,
11 with respect to any taxpayer, the last day of the tax-
12 payer’s first taxable year beginning after the date of
13 the enactment of this paragraph and before the date
14 that is 1 year after such date of enactment.”.

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

18 **SEC. 15313. MINERAL ROYALTY INCOME QUALIFYING IN-**
19 **COME FOR TIMBER REITS.**

20 (a) IN GENERAL.—Section 856(e)(2) is amended by
21 striking “and” at the end of subparagraph (G), by insert-
22 ing “and” at the end of subparagraph (H), and by adding
23 after subparagraph (H) the following new subparagraph:

24 “(I) mineral royalty income earned in the
25 first taxable year beginning after the date of

1 the enactment of this subparagraph from real
2 property owned by a timber real estate invest-
3 ment trust and held, or once held, in connection
4 with the trade or business of producing timber
5 by such real estate investment trust;”.

6 (b) **TIMBER REAL ESTATE INVESTMENT TRUST.**—
7 Section 856(c)(5), as amended by this Act, is amended
8 by adding after subparagraph (H) the following new sub-
9 paragraph:

10 “(I) **TIMBER REAL ESTATE INVESTMENT**
11 **TRUST.**—The term ‘timber real estate invest-
12 ment trust’ means a real estate investment
13 trust in which more than 50 percent in value of
14 its total assets consists of real property held in
15 connection with the trade or business of pro-
16 ducing timber.”.

17 (c) **EFFECTIVE DATE.**—The amendments by this sec-
18 tion shall apply to taxable years beginning after the date
19 of the enactment of this Act.

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

22 (a) **IN GENERAL.**—Section 856(c)(4)(B)(ii) is
23 amended by inserting “(in the case of a quarter which
24 closes on or before the termination date, 25 percent in

1 the case of a timber real estate investment trust)” after
2 “REIT subsidiaries”.

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

6 **SEC. 15315. SAFE HARBOR FOR TIMBER PROPERTY.**

7 (a) **IN GENERAL.**—Section 857(b)(6) (relating to in-
8 come from prohibited transactions) is amended by adding
9 at the end the following new subparagraph:

10 (G) **SPECIAL RULES FOR SALES TO**
11 **QUALIFIED ORGANIZATIONS.**—

12 (i) **IN GENERAL.**—In the case of the
13 sale of a real estate asset (as defined in
14 section 856(c)(5)(B)) to a qualified organi-
15 zation (as defined in section 170(h)(3)) ex-
16 clusively for conservation purposes (within
17 the meaning of section 170(h)(1)(C)), sub-
18 paragraph (D) shall be applied—

19 (I) by substituting ‘2 years’ for
20 ‘4 years’ in clause (i), and

21 (II) by substituting ‘2-year pe-
22 riod’ for ‘4-year period’ in clauses (ii)
23 and (iii).

1 “(ii) TERMINATION.—This subpara-
2 graph shall not apply to sales after the ter-
3 mination date.”.

4 (b) PROHIBITED TRANSACTIONS.—Section
5 857(b)(6)(D)(v) is amended by inserting “, or, in the case
6 of a sale on or before the termination date, a taxable
7 REIT subsidiary” after “any income”.

8 (c) SALES THAT ARE NOT PROHIBITED TRANS-
9 ACTIONS.—Section 857(b)(6), as amended by subsection
10 (a), is amended by adding at the end the following new
11 subparagraph:

12 “(H) SALES OF PROPERTY THAT ARE NOT
13 A PROHIBITED TRANSACTION.—In the case of a
14 sale on or before the termination date, the sale
15 of property which is not a prohibited trans-
16 action through the application of subparagraph
17 (D) shall be considered property held for invest-
18 ment or for use in a trade or business and not
19 property described in section 1221(a)(1) for all
20 purposes of this subtitle.”.

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

24 “(I) TERMINATION DATE.—For purposes
25 of this paragraph, the term ‘termination date’

1 has the meaning given such term by section
2 856(c)(8).”.

3 (e) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to dispositions in taxable years be-
5 ginning after the date of the enactment of this Act.

6 **SEC. 15316. QUALIFIED FORESTRY CONSERVATION BONDS.**

7 (a) IN GENERAL.—Part IV of subchapter A of chap-
8 ter 1 (relating to credits against tax) is amended by add-
9 ing at the end the following new subpart:

10 **“Subpart I—Qualified Tax Credit Bonds**

 “Sec. 54A. Credit to holders of qualified tax credit bonds.

 “Sec. 54B. Qualified forestry conservation bonds.

11 **“SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CRED-**
12 **IT BONDS.**

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

20 “(b) AMOUNT OF CREDIT.—

21 “(1) IN GENERAL.—The amount of the credit
22 determined under this subsection with respect to any
23 credit allowance date for a qualified tax credit bond

1 is 25 percent of the annual credit determined with
2 respect to such bond.

3 “(2) ANNUAL CREDIT.—The annual credit de-
4 termined with respect to any qualified tax credit
5 bond is the product of—

6 “(A) the applicable credit rate, multiplied
7 by

8 “(B) the outstanding face amount of the
9 bond.

10 “(3) APPLICABLE CREDIT RATE.—For purposes
11 of paragraph (2), the applicable credit rate is the
12 rate which the Secretary estimates will permit the
13 issuance of qualified tax credit bonds with a speci-
14 fied maturity or redemption date without discount
15 and without interest cost to the qualified issuer. The
16 applicable credit rate with respect to any qualified
17 tax credit bond shall be determined as of the first
18 day on which there is a binding, written contract for
19 the sale or exchange of the bond.

20 “(4) SPECIAL RULE FOR ISSUANCE AND RE-
21 DEMPTION.—In the case of a bond which is issued
22 during the 3-month period ending on a credit allow-
23 ance date, the amount of the credit determined
24 under this subsection with respect to such credit al-
25 lowance date shall be a ratable portion of the credit

1 otherwise determined based on the portion of the 3-
2 month period during which the bond is outstanding.
3 A similar rule shall apply when the bond is redeemed
4 or matures.

5 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

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

9 “(A) the sum of the regular tax liability
10 (as defined in section 26(b)) plus the tax im-
11 posed by section 55, over

12 “(B) the sum of the credits allowable
13 under this part (other than subpart C and this
14 subpart).

15 “(2) CARRYOVER OF UNUSED CREDIT.—If the
16 credit allowable under subsection (a) exceeds the
17 limitation imposed by paragraph (1) for such taxable
18 year, such excess shall be carried to the succeeding
19 taxable year and added to the credit allowable under
20 subsection (a) for such taxable year (determined be-
21 fore the application of paragraph (1) for such suc-
22 ceeding taxable year).

23 “(d) QUALIFIED TAX CREDIT BOND.—For purposes
24 of this section—

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

6 “(2) SPECIAL RULES RELATING TO EXPENDI-
7 TURES.—

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

12 “(i) 100 percent or more of the avail-
13 able project proceeds to be spent for 1 or
14 more qualified purposes within the 3-year
15 period beginning on such date of issuance,
16 and

17 “(ii) a binding commitment with a
18 third party to spend at least 10 percent of
19 such available project proceeds will be in-
20 curred within the 6-month period begin-
21 ning on such date of issuance.

22 “(B) FAILURE TO SPEND REQUIRED
23 AMOUNT OF BOND PROCEEDS WITHIN 3
24 YEARS.—

1 “(i) IN GENERAL.—To the extent that
2 less than 100 percent of the available
3 project proceeds of the issue are expended
4 by the close of the expenditure period for
5 1 or more qualified purposes, the issuer
6 shall redeem all of the nonqualified bonds
7 within 90 days after the end of such pe-
8 riod. For purposes of this paragraph, the
9 amount of the nonqualified bonds required
10 to be redeemed shall be determined in the
11 same manner as under section 142.

12 “(ii) EXPENDITURE PERIOD.—For
13 purposes of this subpart, the term ‘expend-
14 iture period’ means, with respect to any
15 issue, the 3-year period beginning on the
16 date of issuance. Such term shall include
17 any extension of such period under clause
18 (iii).

19 “(iii) EXTENSION OF PERIOD.—Upon
20 submission of a request prior to the expira-
21 tion of the expenditure period (determined
22 without regard to any extension under this
23 clause), the Secretary may extend such pe-
24 riod if the issuer establishes that the fail-
25 ure to expend the proceeds within the

1 original expenditure period is due to rea-
2 sonable cause and the expenditures for
3 qualified purposes will continue to proceed
4 with due diligence.

5 “(C) QUALIFIED PURPOSE.—For purposes
6 of this paragraph, the term ‘qualified purpose’
7 means a purpose specified in section 54B(e).

8 “(D) REIMBURSEMENT.—For purposes of
9 this subtitle, available project proceeds of an
10 issue shall be treated as spent for a qualified
11 purpose if such proceeds are used to reimburse
12 the issuer for amounts paid for a qualified pur-
13 pose after the date that the Secretary makes an
14 allocation of bond limitation with respect to
15 such issue, but only if—

16 “(i) prior to the payment of the origi-
17 nal expenditure, the issuer declared its in-
18 tent to reimburse such expenditure with
19 the proceeds of a qualified tax credit bond,

20 “(ii) not later than 60 days after pay-
21 ment of the original expenditure, the issuer
22 adopts an official intent to reimburse the
23 original expenditure with such proceeds,
24 and

1 “(iii) the reimbursement is made not
2 later than 18 months after the date the
3 original expenditure is paid.

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

8 “(4) SPECIAL RULES RELATING TO ARBI-
9 TRAGE.—

10 “(A) IN GENERAL.—An issue shall be
11 treated as meeting the requirements of this
12 paragraph if the issuer satisfies the require-
13 ments of section 148 with respect to the pro-
14 ceeds of the issue.

15 “(B) SPECIAL RULE FOR INVESTMENTS
16 DURING EXPENDITURE PERIOD.—An issue shall
17 not be treated as failing to meet the require-
18 ments of subparagraph (A) by reason of any in-
19 vestment of available project proceeds during
20 the expenditure period.

21 “(C) SPECIAL RULE FOR RESERVE
22 FUNDS.—An issue shall not be treated as fail-
23 ing to meet the requirements of subparagraph
24 (A) by reason of any fund which is expected to
25 be used to repay such issue if—

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

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

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

11 “(5) MATURITY LIMITATION.—

12 “(A) IN GENERAL.—An issue shall be
13 treated as meeting the requirements of this
14 paragraph if the maturity of any bond which is
15 part of such issue does not exceed the max-
16 imum term determined by the Secretary under
17 subparagraph (B).

18 “(B) MAXIMUM TERM.—During each cal-
19 endar month, the Secretary shall determine the
20 maximum term permitted under this paragraph
21 for bonds issued during the following calendar
22 month. Such maximum term shall be the term
23 which the Secretary estimates will result in the
24 present value of the obligation to repay the
25 principal on the bond being equal to 50 percent

1 of the face amount of such bond. Such present
2 value shall be determined using as a discount
3 rate the average annual interest rate of tax-ex-
4 empt obligations having a term of 10 years or
5 more which are issued during the month. If the
6 term as so determined is not a multiple of a
7 whole year, such term shall be rounded to the
8 next highest whole year.

9 “(6) PROHIBITION ON FINANCIAL CONFLICTS
10 OF INTEREST.—An issue shall be treated as meeting
11 the requirements of this paragraph if the issuer cer-
12 tifies that—

13 “(A) applicable State and local law re-
14 quirements governing conflicts of interest are
15 satisfied with respect to such issue, and

16 “(B) if the Secretary prescribes additional
17 conflicts of interest rules governing the appro-
18 priate Members of Congress, Federal, State,
19 and local officials, and their spouses, such addi-
20 tional rules are satisfied with respect to such
21 issue.

22 “(e) OTHER DEFINITIONS.—For purposes of this
23 subchapter—

24 “(1) CREDIT ALLOWANCE DATE.—The term
25 ‘credit allowance date’ means—

- 1 “(A) March 15,
2 “(B) June 15,
3 “(C) September 15, and
4 “(D) December 15.

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

7 “(2) BOND.—The term ‘bond’ includes any ob-
8 ligation.

9 “(3) STATE.—The term ‘State’ includes the
10 District of Columbia and any possession of the
11 United States.

12 “(4) AVAILABLE PROJECT PROCEEDS.—The
13 term ‘available project proceeds’ means—

14 “(A) the excess of—

15 “(i) the proceeds from the sale of an
16 issue, over

17 “(ii) the issuance costs financed by
18 the issue (to the extent that such costs do
19 not exceed 2 percent of such proceeds),
20 and

21 “(B) the proceeds from any investment of
22 the excess described in subparagraph (A).

23 “(f) CREDIT TREATED AS INTEREST.—For purposes
24 of this subtitle, the credit determined under subsection (a)

1 shall be treated as interest which is includible in gross in-
2 come.

3 “(g) S CORPORATIONS AND PARTNERSHIPS.—In the
4 case of a tax credit bond held by an S corporation or part-
5 nership, the allocation of the credit allowed by this section
6 to the shareholders of such corporation or partners of such
7 partnership shall be treated as a distribution.

8 “(h) BONDS HELD BY REGULATED INVESTMENT
9 COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—
10 If any qualified tax credit bond is held by a regulated in-
11 vestment company or a real estate investment trust, the
12 credit determined under subsection (a) shall be allowed to
13 shareholders of such company or beneficiaries of such
14 trust (and any gross income included under subsection (f)
15 with respect to such credit shall be treated as distributed
16 to such shareholders or beneficiaries) under procedures
17 prescribed by the Secretary.

18 “(i) CREDITS MAY BE STRIPPED.—Under regula-
19 tions prescribed by the Secretary—

20 “(1) IN GENERAL.—There may be a separation
21 (including at issuance) of the ownership of a quali-
22 fied tax credit bond and the entitlement to the credit
23 under this section with respect to such bond. In case
24 of any such separation, the credit under this section
25 shall be allowed to the person who on the credit al-

1 lowance date holds the instrument evidencing the en-
2 titlement to the credit and not to the holder of the
3 bond.

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

9 **“SEC. 54B. QUALIFIED FORESTRY CONSERVATION BONDS.**

10 “(a) QUALIFIED FORESTRY CONSERVATION BOND.—
11 For purposes of this subchapter, the term ‘qualified for-
12 estry conservation bond’ means any bond issued as part
13 of an issue if—

14 “(1) 100 percent of the available project pro-
15 ceeds of such issue are to be used for one or more
16 qualified forestry conservation purposes,

17 “(2) the bond is issued by a qualified issuer,
18 and

19 “(3) the issuer designates such bond for pur-
20 poses of this section.

21 “(b) LIMITATION ON AMOUNT OF BONDS DES-
22 IGNATED.—The maximum aggregate face amount of
23 bonds which may be designated under subsection (a) by
24 any issuer shall not exceed the limitation amount allocated
25 to such issuer under subsection (d).

1 “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS
2 DESIGNATED.—There is a national qualified forestry con-
3 servation bond limitation of \$500,000,000.

4 “(d) ALLOCATIONS.—

5 “(1) IN GENERAL.—The Secretary shall make
6 allocations of the amount of the national qualified
7 forestry conservation bond limitation described in
8 subsection (c) among qualified forestry conservation
9 purposes in such manner as the Secretary deter-
10 mines appropriate so as to ensure that all of such
11 limitation is allocated before the date which is 24
12 months after the date of the enactment of this sec-
13 tion.

14 “(2) SOLICITATION OF APPLICATIONS.—The
15 Secretary shall solicit applications for allocations of
16 the national qualified forestry conservation bond lim-
17 itation described in subsection (c) not later than 90
18 days after the date of the enactment of this section.

19 “(e) QUALIFIED FORESTRY CONSERVATION PUR-
20 POSE.—For purposes of this section, the term ‘qualified
21 forestry conservation purpose’ means the acquisition by a
22 State or any political subdivision or instrumentality there-
23 of or a 501(c)(3) organization (as defined in section
24 150(a)(4)) from an unrelated person of forest and forest
25 land that meets the following qualifications:

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

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

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

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

13 “(f) QUALIFIED ISSUER.—For purposes of this sec-
14 tion, the term ‘qualified issuer’ means a State or any polit-
15 ical subdivision or instrumentality thereof or a 501(c)(3)
16 organization (as defined in section 150(a)(4)).

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

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

23 “(1) IN GENERAL.—If—

24 “(A) a qualified issuer receives an alloca-
25 tion of any portion of the national qualified for-

1 estry conservation bond limitation described in
2 subsection (c), and

3 “(B) the qualified issuer elects the applica-
4 tion of this subsection with respect to such allo-
5 cation,

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

13 “(2) TREATMENT OF DEEMED PAYMENT.—

14 “(A) IN GENERAL.—Notwithstanding any
15 other provision of this title, the Secretary shall
16 not use the payment of tax described in para-
17 graph (1) as an offset or credit against any tax
18 liability of the qualified issuer but shall refund
19 such payment to such issuer.

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

1 “(3) REQUIREMENT FOR, AND EFFECT OF,
2 ELECTION.—

3 “(A) REQUIREMENT.—No election under
4 this subsection shall take effect unless the
5 qualified issuer certifies to the Secretary that
6 any payment of tax refunded to the issuer
7 under this subsection will be used exclusively
8 for 1 or more qualified forestry conservation
9 purposes. If the qualified issuer fails to use any
10 portion of such payment for such purpose, the
11 issuer shall be liable to the United States in an
12 amount equal to such portion, plus interest at
13 the overpayment rate under section 6621 for
14 the period from the date such portion was re-
15 funded to the date such amount is paid. Any
16 such amount shall be assessed and collected in
17 the same manner as tax imposed by this chap-
18 ter, except that subchapter B of chapter 63 (re-
19 lating to deficiency procedures) shall not apply
20 in respect of such assessment or collection.

21 “(B) EFFECT OF ELECTION ON ALLOCA-
22 TION.—If a qualified issuer makes the election
23 under this subsection with respect to any alloca-
24 tion—

1 “(i) the issuer may issue no bonds
2 pursuant to the allocation, and

3 “(ii) the Secretary may not reallocate
4 such allocation for any other purpose.”.

5 (b) REPORTING.—Subsection (d) of section 6049 (re-
6 lating to returns regarding payments of interest) is
7 amended by adding at the end the following new para-
8 graph:

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

11 “(A) IN GENERAL.—For purposes of sub-
12 section (a), the term ‘interest’ includes amounts
13 includible in gross income under section 54A
14 and such amounts shall be treated as paid on
15 the credit allowance date (as defined in section
16 54A(e)(1)).

17 “(B) REPORTING TO CORPORATIONS,
18 ETC.—Except as otherwise provided in regula-
19 tions, in the case of any interest described in
20 subparagraph (A) of this paragraph, subsection
21 (b)(4) of this section shall be applied without
22 regard to subparagraphs (A), (H), (I), (J), (K),
23 and (L)(i).

24 “(C) REGULATORY AUTHORITY.—The Sec-
25 retary may prescribe such regulations as are

1 necessary or appropriate to carry out the pur-
2 poses of this paragraph, including regulations
3 which require more frequent or more detailed
4 reporting.”.

5 (c) CONFORMING AMENDMENTS.—

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

9 (2) Section 1397E(c)(2) is amended by striking
10 “subpart H” and inserting “subparts H and I”.

11 (3) Section 6401(b)(1) is amended by striking
12 “and H” and inserting “H, and I”.

13 (4) The heading of subpart H of part IV of
14 subchapter A of chapter 1 is amended by striking
15 “**Certain Bonds**” and inserting “**Clean Re-**
16 **newable Energy Bonds**”.

17 (5) The table of subparts for part IV of sub-
18 chapter A of chapter 1 is amended by striking the
19 item relating to subpart H and inserting the fol-
20 lowing new items:

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

 “SUBPART I. QUALIFIED TAX CREDIT BONDS.”.

21 (6) Paragraph (2) of section 1324(b) of title
22 31, United States Code, is amended by striking “or

1 6428 or 53(e)” and inserting “, 53(e), 54B(h), or
2 6428”.

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

6 **PART II—ENERGY PROVISIONS**

7 **Subpart A—Cellulosic Biofuel**

8 **SEC. 15321. CREDIT FOR PRODUCTION OF CELLULOSIC** 9 **BIOFUEL.**

10 (a) IN GENERAL.—Subsection (a) of section 40 (re-
11 lating to alcohol used as fuel) is amended by striking
12 “plus” at the end of paragraph (1), by striking “plus”
13 at the end of paragraph (2), by striking the period at the
14 end of paragraph (3) and inserting “, plus”, and by add-
15 ing at the end the following new paragraph:

16 “(4) the cellulosic biofuel producer credit.”.

17 (b) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

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

21 “(6) CELLULOSIC BIOFUEL PRODUCER CRED-
22 IT.—

23 “(A) IN GENERAL.—The cellulosic biofuel
24 producer credit of any taxpayer is an amount

1 equal to the applicable amount for each gallon
2 of qualified cellulosic biofuel production.

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

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

13 “(ii) in the case of ethanol, the
14 amount of the credit in effect under sub-
15 section (b)(4) at the time of such produc-
16 tion.

17 “(C) QUALIFIED CELLULOSIC BIOFUEL
18 PRODUCTION.—For purposes of this section,
19 the term ‘qualified cellulosic biofuel production’
20 means any cellulosic biofuel which is produced
21 by the taxpayer, and which during the taxable
22 year—

23 “(i) is sold by the taxpayer to another
24 person—

1 “(I) for use by such other person
2 in the production of a qualified cel-
3 lulosic biofuel mixture in such other
4 person’s trade or business (other than
5 casual off-farm production),

6 “(II) for use by such other per-
7 son as a fuel in a trade or business,
8 or

9 “(III) who sells such cellulosic
10 biofuel at retail to another person and
11 places such cellulosic biofuel in the
12 fuel tank of such other person, or

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

15 The qualified cellulosic biofuel production of
16 any taxpayer for any taxable year shall not in-
17 clude any alcohol which is purchased by the
18 taxpayer and with respect to which such pro-
19 ducer increases the proof of the alcohol by addi-
20 tional distillation.

21 “(D) QUALIFIED CELLULOSIC BIOFUEL
22 MIXTURE.—For purposes of this paragraph, the
23 term ‘qualified cellulosic biofuel mixture’ means
24 a mixture of cellulosic biofuel and gasoline or of
25 cellulosic biofuel and a special fuel which—

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

4 “(ii) is used as a fuel by the person
5 producing such mixture.

6 “(E) CELLULOSIC BIOFUEL.—For pur-
7 poses of this paragraph—

8 “(i) IN GENERAL.—The term ‘cel-
9 lulosic biofuel’ means any liquid fuel
10 which—

11 “(I) is produced from any
12 lignocellulosic or hemicellulosic matter
13 that is available on a renewable or re-
14 curring basis, and

15 “(II) meets the registration re-
16 quirements for fuels and fuel additives
17 established by the Environmental Pro-
18 tection Agency under section 211 of
19 the Clean Air Act (42 U.S.C. 7545).

20 “(ii) EXCLUSION OF LOW-PROOF AL-
21 COHOL.—Such term shall not include any
22 alcohol with a proof of less than 150. The
23 determination of the proof of any alcohol
24 shall be made without regard to any added
25 denaturants.

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

6 “(G) REGISTRATION REQUIREMENT.—No
7 credit shall be determined under this paragraph
8 with respect to any taxpayer unless such tax-
9 payer is registered with the Secretary as a pro-
10 ducer of cellulosic biofuel under section 4101.

11 “(H) APPLICATION OF PARAGRAPH.—This
12 paragraph shall apply with respect to qualified
13 cellulosic biofuel production after December 31,
14 2008, and before January 1, 2013.”.

15 (2) TERMINATION DATE NOT TO APPLY.—Sub-
16 section (e) of section 40 (relating to termination) is
17 amended—

18 (A) by inserting “or subsection (b)(6)(H)”
19 after “by reason of paragraph (1)” in para-
20 graph (2), and

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

23 “(3) EXCEPTION FOR CELLULOSIC BIOFUEL
24 PRODUCER CREDIT.—Paragraph (1) shall not apply

1 to the portion of the credit allowed under this sec-
2 tion by reason of subsection (a)(4).”.

3 (3) CONFORMING AMENDMENTS.—

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

6 (i) by striking “and every person” and
7 inserting “, every person”, and

8 (ii) by inserting “, and every person
9 producing cellulosic biofuel (as defined in
10 section 40(b)(6)(E))” after “section
11 6426(b)(4)(A)”.

12 (B) The heading of section 40, and the
13 item relating to such section in the table of sec-
14 tions for subpart D of part IV of subchapter A
15 of chapter 1, are each amended by inserting “,
16 etc.,” after “Alcohol”.

17 (c) BIOFUEL NOT USED AS A FUEL, ETC.—

18 (1) IN GENERAL.—Paragraph (3) of section
19 40(d) is amended by redesignating subparagraph
20 (D) as subparagraph (E) and by inserting after sub-
21 paragraph (C) the following new subparagraph:

22 “(D) CELLULOSIC BIOFUEL PRODUCER
23 CREDIT.—If—

24 “(i) any credit is allowed under sub-
25 section (a)(4), and

1 “(ii) any person does not use such
2 fuel for a purpose described in subsection
3 (b)(6)(C),
4 then there is hereby imposed on such person a
5 tax equal to the applicable amount (as defined
6 in subsection (b)(6)(B)) for each gallon of such
7 cellulosic biofuel.”.

8 (2) CONFORMING AMENDMENTS.—

9 (A) Subparagraph (C) of section 40(d)(3)
10 is amended by striking “PRODUCER” in the
11 heading and inserting “SMALL ETHANOL PRO-
12 DUCER”.

13 (B) Subparagraph (E) of section 40(d)(3),
14 as redesignated by paragraph (1), is amended
15 by striking “or (C)” and inserting “(C), or
16 (D)”.

17 (d) BIOFUEL PRODUCED IN THE UNITED STATES.—

18 Section 40(d) is amended by adding at the end the fol-
19 lowing new paragraph:

20 “(6) SPECIAL RULE FOR CELLULOSIC BIOFUEL
21 PRODUCER CREDIT.—No cellulosic biofuel producer
22 credit shall be determined under subsection (a) with
23 respect to any cellulosic biofuel unless such cellulosic
24 biofuel is produced in the United States and used as
25 a fuel in the United States. For purposes of this

1 subsection, the term ‘United States’ includes any
2 possession of the United States.”.

3 (e) WAIVER OF CREDIT LIMIT FOR CELLULOSIC
4 BIOFUEL PRODUCTION BY SMALL ETHANOL PRO-
5 DUCERS.—Section 40(b)(4)(C) is amended by inserting
6 “(determined without regard to any qualified cellulosic
7 biofuel production)” after “15,000,000 gallons”.

8 (f) DENIAL OF DOUBLE BENEFIT.—

9 (1) BIODIESEL.—Paragraph (1) of section
10 40A(d) is amended by adding at the end the fol-
11 lowing new flush sentence:

12 “Such term shall not include any liquid with respect
13 to which a credit may be determined under section
14 40.”.

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

18 “Such term shall not include any liquid with respect
19 to which a credit may be determined under section
20 40.”.

21 (g) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to fuel produced after December
23 31, 2008.

1 **SEC. 15322. COMPREHENSIVE STUDY OF BIOFUELS.**

2 (a) STUDY.—The Secretary of the Treasury, in con-
3 sultation with the Secretary of Agriculture, the Secretary
4 of Energy, and the Administrator of the Environmental
5 Protection Agency, shall enter into an agreement with the
6 National Academy of Sciences to produce an analysis of
7 current scientific findings to determine—

8 (1) current biofuels production, as well as pro-
9 jections for future production,

10 (2) the maximum amount of biofuels production
11 capable in United States forests and farmlands, in-
12 cluding the current quantities and character of the
13 feedstocks and including such information as re-
14 gional forest inventories that are commercially avail-
15 able, used in the production of biofuels,

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

19 (A) the price of fuel,

20 (B) the price of land in rural and subur-
21 ban communities,

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

24 (D) the environment, due to changes in
25 crop acreage, fertilizer use, runoff, water use,

1 emissions from vehicles utilizing biofuels, and
2 other factors,

3 (E) the price of feed,

4 (F) the selling price of grain crops and for-
5 est products,

6 (G) exports and imports of grains and for-
7 est products,

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

10 (I) the expansion of refinery capacity,

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

13 (5) a comparative analysis of corn ethanol
14 versus other biofuels and renewable energy sources,
15 considering cost, energy output, and ease of imple-
16 mentation,

17 (6) the impact of the tax credit established by
18 this subpart on the regional agricultural and silvicult-
19 tural capabilities of commercially available forest in-
20 ventories, and

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

23 (b) REPORT.—The Secretary of the Treasury shall
24 submit an initial report of the findings of the study re-
25 quired under subsection (a) to Congress not later than 6

1 months after the date of the enactment of this Act (36
 2 months after such date in the case of the information re-
 3 quired by subsection (a)(6)), and a final report not later
 4 than 12 months after such date (42 months after such
 5 date in the case of the information required by subsection
 6 (a)(6)).

7 **Subpart B—Revenue Provisions**

8 **SEC. 15331. MODIFICATION OF ALCOHOL CREDIT.**

9 (a) INCOME TAX CREDIT.—

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

12 (A) by striking “through 2010” in the first
 13 column and inserting “, 2006, 2007, or 2008”,

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

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

“2009 through 2010 45 cents 33.33 cents.”.

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

20 “(3) REDUCTION DELAYED UNTIL ANNUAL
 21 PRODUCTION OR IMPORTATION OF 7,500,000,000 GAL-
 22 LONS.—

23 “(A) IN GENERAL.—In the case of any cal-
 24 endar year beginning after 2008, if the Sec-

1 retary makes a determination described in sub-
2 paragraph (B) with respect to all preceding cal-
3 endar years beginning after 2007, the last row
4 in the table in paragraph (2) shall be applied
5 by substituting ‘51 cents’ for ‘45 cents’.

6 “(B) DETERMINATION.—A determination
7 described in this subparagraph with respect to
8 any calendar year is a determination, in con-
9 sultation with the Administrator of the Envi-
10 ronmental Protection Agency, that an amount
11 less than 7,500,000,000 gallons of ethanol (in-
12 cluding cellulosic ethanol) has been produced in
13 or imported into the United States in such
14 year.”.

15 (b) EXCISE TAX CREDIT.—

16 (1) IN GENERAL.—Subparagraph (A) of section
17 6426(b)(2) (relating to alcohol fuel mixture credit)
18 is amended by striking “the applicable amount is 51
19 cents” and inserting “the applicable amount is—

20 “(i) in the case of calendar years be-
21 ginning before 2009, 51 cents, and

22 “(ii) in the case of calendar years be-
23 ginning after 2008, 45 cents.”.

1 (2) EXCEPTION.—Paragraph (2) of section
2 6426(b) is amended by adding at the end the fol-
3 lowing new subparagraph:

4 “(C) REDUCTION DELAYED UNTIL ANNUAL
5 PRODUCTION OR IMPORTATION OF 7,500,000,000
6 GALLONS.—In the case of any calendar year be-
7 ginning after 2008, if the Secretary makes a
8 determination described in section 40(h)(3)(B)
9 with respect to all preceding calendar years be-
10 ginning after 2007, subparagraph (A)(ii) shall
11 be applied by substituting ‘51 cents’ for ‘45
12 cents’.”

13 (3) CONFORMING AMENDMENT.—Subparagraph
14 (A) of section 6426(b)(2) is amended by striking
15 “subparagraph (B)” and inserting “subparagraphs
16 (B) and (C)”.

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

20 **SEC. 15332. CALCULATION OF VOLUME OF ALCOHOL FOR**
21 **FUEL CREDITS.**

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

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

6 “(5) VOLUME OF ALCOHOL.—For purposes of
7 determining under subsection (a) the number of gal-
8 lons of alcohol with respect to which a credit is al-
9 lowable under subsection (a), the volume of alcohol
10 shall include the volume of any denaturant (includ-
11 ing gasoline) which is added under any formulas ap-
12 proved by the Secretary to the extent that such de-
13 naturants do not exceed 2 percent of the volume of
14 such alcohol (including denaturants).”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to fuel sold or used after December
17 31, 2008.

18 **SEC. 15333. ETHANOL TARIFF EXTENSION.**

19 Headings 9901.00.50 and 9901.00.52 of the Har-
20 monized Tariff Schedule of the United States are each
21 amended in the effective period column by striking “1/1/
22 2009” and inserting “1/1/2011”.

1 **SEC. 15334. LIMITATIONS ON DUTY DRAWBACK ON CERTAIN**
2 **IMPORTED ETHANOL.**

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

6 “(5) **SPECIAL RULES FOR ETHYL ALCOHOL.**—
7 For purposes of this subsection, any duty paid under
8 subheading 9901.00.50 of the Harmonized Tariff
9 Schedule of the United States on imports of ethyl al-
10 cohol or a mixture of ethyl alcohol may not be re-
11 funded if the exported article upon which a draw-
12 back claim is based does not contain ethyl alcohol or
13 a mixture of ethyl alcohol.”.

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

16 (1) imports of ethyl alcohol or a mixture of
17 ethyl alcohol entered for consumption, or withdrawn
18 from warehouse for consumption, on or after Octo-
19 ber 1, 2008; and

20 (2) imports of ethyl alcohol or a mixture of
21 ethyl alcohol entered for consumption, or withdrawn
22 from warehouse for consumption, before October 1,
23 2008, if a duty drawback claim is filed with respect
24 to such imports on or after October 1, 2010.

1 **PART III—AGRICULTURAL PROVISIONS**

2 **SEC. 15341. INCREASE IN LOAN LIMITS ON AGRICULTURAL**
3 **BONDS.**

4 (a) IN GENERAL.—Subparagraph (A) of section
5 147(c)(2) (relating to exception for first-time farmers) is
6 amended by striking “\$250,000” and inserting
7 “\$450,000”.

8 (b) INFLATION ADJUSTMENT.—Section 147(c)(2) is
9 amended by adding at the end the following new subpara-
10 graph:

11 “(H) ADJUSTMENTS FOR INFLATION.—In
12 the case of any calendar year after 2008, the
13 dollar amount in subparagraph (A) shall be in-
14 creased by an amount equal to—

15 “(i) such dollar amount, multiplied by

16 “(ii) the cost-of-living adjustment de-
17 termined under section 1(f)(3) for the cal-
18 endar year, determined by substituting
19 ‘calendar year 2007’ for ‘calendar year
20 1992’ in subparagraph (B) thereof.

21 If any amount as increased under the preceding
22 sentence is not a multiple of \$100, such amount
23 shall be rounded to the nearest multiple of
24 \$100.”.

25 (c) MODIFICATION OF SUBSTANTIAL FARMLAND
26 DEFINITION.—Section 147(c)(2)(E) (defining substantial

1 farmland) is amended by striking “unless” and all that
2 follows through the period and inserting “unless such par-
3 cel is smaller than 30 percent of the median size of a farm
4 in the county in which such parcel is located.”.

5 (d) CONFORMING AMENDMENT.—Section
6 147(e)(2)(C)(i)(II) is amended by striking “\$250,000”
7 and inserting “the amount in effect under subparagraph
8 (A)”.

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

12 **SEC. 15342. ALLOWANCE OF SECTION 1031 TREATMENT FOR**
13 **EXCHANGES INVOLVING CERTAIN MUTUAL**
14 **DITCH, RESERVOIR, OR IRRIGATION COM-**
15 **PANY STOCK.**

16 (a) IN GENERAL.—Section 1031 (relating to ex-
17 change of property held for productive use or investment)
18 is amended by adding at the end the following new sub-
19 section:

20 “(i) SPECIAL RULES FOR MUTUAL DITCH, RES-
21 ERVOIR, OR IRRIGATION COMPANY STOCK.—For purposes
22 of subsection (a)(2)(B), the term ‘stocks’ shall not include
23 shares in a mutual ditch, reservoir, or irrigation company
24 if at the time of the exchange—

1 “(1) the mutual ditch, reservoir, or irrigation
2 company is an organization described in section
3 501(c)(12)(A) (determined without regard to the
4 percentage of its income that is collected from its
5 members for the purpose of meeting losses and ex-
6 penses), and

7 “(2) the shares in such company have been rec-
8 ognized by the highest court of the State in which
9 such company was organized or by applicable State
10 statute as constituting or representing real property
11 or an interest in real property.”.

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

15 **SEC. 15343. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

16 (a) IN GENERAL.—Subpart D of part IV of sub-
17 chapter A of chapter 1 (relating to business related cred-
18 its) is amended by adding at the end the following new
19 section:

20 **“SEC. 450. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

21 “(a) IN GENERAL.—For purposes of section 38, in
22 the case of an eligible agricultural business, the agricul-
23 tural chemicals security credit determined under this sec-
24 tion for the taxable year is 30 percent of the qualified se-
25 curity expenditures for the taxable year.

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

4 “(1) \$100,000, reduced by

5 “(2) the aggregate amount of credits deter-
6 mined under subsection (a) with respect to such fa-
7 cility for the 5 prior taxable years.

8 “(c) ANNUAL LIMITATION.—The amount of the cred-
9 it determined under subsection (a) with respect to any tax-
10 payer for any taxable year shall not exceed \$2,000,000.

11 “(d) QUALIFIED CHEMICAL SECURITY EXPENDI-
12 TURE.—For purposes of this section, the term ‘qualified
13 chemical security expenditure’ means, with respect to any
14 eligible agricultural business for any taxable year, any
15 amount paid or incurred by such business during such tax-
16 able year for—

17 “(1) employee security training and background
18 checks,

19 “(2) limitation and prevention of access to con-
20 trols of specified agricultural chemicals stored at the
21 facility,

22 “(3) tagging, locking tank valves, and chemical
23 additives to prevent the theft of specified agricul-
24 tural chemicals or to render such chemicals unfit for
25 illegal use,

1 “(4) protection of the perimeter of specified ag-
2 ricultural chemicals,

3 “(5) installation of security lighting, cameras,
4 recording equipment, and intrusion detection sen-
5 sors,

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

8 “(7) conducting a security vulnerability assess-
9 ment,

10 “(8) implementing a site security plan, and

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

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

18 “(e) ELIGIBLE AGRICULTURAL BUSINESS.—For pur-
19 poses of this section, the term ‘eligible agricultural busi-
20 ness’ means any person in the trade or business of—

21 “(1) selling agricultural products, including
22 specified agricultural chemicals, at retail predomi-
23 nantly to farmers and ranchers, or

24 “(2) manufacturing, formulating, distributing,
25 or aerially applying specified agricultural chemicals.

1 “(f) SPECIFIED AGRICULTURAL CHEMICAL.—For
2 purposes of this section, the term ‘specified agricultural
3 chemical’ means—

4 “(1) any fertilizer commonly used in agricul-
5 tural operations which is listed under—

6 “(A) section 302(a)(2) of the Emergency
7 Planning and Community Right-to-Know Act of
8 1986,

9 “(B) section 101 of part 172 of title 49,
10 Code of Federal Regulations, or

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

13 “(2) any pesticide (as defined in section 2(u) of
14 the Federal Insecticide, Fungicide, and Rodenticide
15 Act), including all active and inert ingredients there-
16 of, which is customarily used on crops grown for
17 food, feed, or fiber.

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

21 “(h) REGULATIONS.—The Secretary may prescribe
22 such regulations as may be necessary or appropriate to
23 carry out the purposes of this section, including regula-
24 tions which—

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

5 “(2) provide for the treatment of related prop-
6 erties as one facility for purposes of subsection (b).

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

9 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
10 NESS CREDIT.—Section 38(b) is amended by striking
11 “plus” at the end of paragraph (30), by striking the period
12 at the end of paragraph (31) and inserting “, plus”, and
13 by adding at the end the following new paragraph:

14 “(32) in the case of an eligible agricultural
15 business (as defined in section 45O(e)), the agricul-
16 tural chemicals security credit determined under sec-
17 tion 45O(a).”.

18 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C is
19 amended by adding at the end the following new sub-
20 section:

21 “(f) CREDIT FOR SECURITY OF AGRICULTURAL
22 CHEMICALS.—No deduction shall be allowed for that por-
23 tion of the expenses otherwise allowable as a deduction
24 taken into account in determining the credit under section
25 45O for the taxable year which is equal to the amount

1 of the credit determined for such taxable year under sec-
2 tion 450(a).”.

3 (d) CLERICAL AMENDMENT.—The table of sections
4 for subpart D of part IV of subchapter A of chapter 1
5 is amended by adding at the end the following new item:
“Sec. 450. Agricultural chemicals security credit.”.

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

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

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

13 “(i) any race horse—

14 “(I) which is placed in service be-
15 fore January 1, 2014, and

16 “(II) which is placed in service
17 after December 31, 2013, and which
18 is more than 2 years old at the time
19 such horse is placed in service by such
20 purchaser.”.

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

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

3 (a) IN GENERAL.—Subject to the modifications de-
4 scribed in this section, the following provisions of or relat-
5 ing to the Internal Revenue Code of 1986 shall apply to
6 the Kansas disaster area in addition to the areas to which
7 such provisions otherwise apply:

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

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

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

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

17 (5) Section 1400N(n) of such Code (relating to
18 treatment of representations regarding income eligi-
19 bility for purposes of qualified rental project require-
20 ments).

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

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

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

1 (9) Section 1400S(b) of such Code (relating to
2 suspension of certain limitations on personal cas-
3 ualty losses).

4 (10) Section 405 of the Katrina Emergency
5 Tax Relief Act of 2005 (relating to extension of re-
6 placement period for nonrecognition of gain).

7 (b) KANSAS DISASTER AREA.—For purposes of this
8 section, the term “Kansas disaster area” means an area
9 with respect to which a major disaster has been declared
10 by the President under section 401 of the Robert T. Staf-
11 ford Disaster Relief and Emergency Assistance Act
12 (FEMA–1699–DR, as in effect on the date of the enact-
13 ment of this Act) by reason of severe storms and tornados
14 beginning on May 4, 2007, and determined by the Presi-
15 dent to warrant individual or individual and public assist-
16 ance from the Federal Government under such Act with
17 respect to damages attributable to such storms and tor-
18 nados.

19 (c) REFERENCES TO AREA OR LOSS.—

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

24 (2) LOSS.—Any reference in such provisions to
25 any loss or damage attributable to Hurricane

1 Katrina shall be treated as a reference to any loss
2 or damage attributable to the May 4, 2007, storms
3 and tornados.

4 (d) REFERENCES TO DATES, ETC.—

5 (1) SPECIAL ALLOWANCE FOR CERTAIN PROP-
6 ERTY ACQUIRED ON OR AFTER MAY 5, 2007.—Section
7 1400N(d) of such Code—

8 (A) by substituting “qualified Recovery As-
9 sistance property” for “qualified Gulf Oppor-
10 tunity Zone property” each place it appears,

11 (B) by substituting “May 5, 2007” for
12 “August 28, 2005” each place it appears,

13 (C) by substituting “December 31, 2008”
14 for “December 31, 2007” in paragraph
15 (2)(A)(v),

16 (D) by substituting “December 31, 2009”
17 for “December 31, 2008” in paragraph
18 (2)(A)(v),

19 (E) by substituting “May 4, 2007” for
20 “August 27, 2005” in paragraph (3)(A),

21 (F) by substituting “January 1, 2009” for
22 “January 1, 2008” in paragraph (3)(B), and

23 (G) determined without regard to para-
24 graph (6) thereof.

1 (2) INCREASE IN EXPENSING UNDER SECTION
2 179.—Section 1400N(e) of such Code, by sub-
3 stituting “qualified section 179 Recovery Assistance
4 property” for “qualified section 179 Gulf Oppor-
5 tunity Zone property” each place it appears.

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

9 (A) by substituting “qualified Recovery As-
10 sistance clean-up cost” for “qualified Gulf Op-
11 portunity Zone clean-up cost” each place it ap-
12 pears, and

13 (B) by substituting “beginning on May 4,
14 2007, and ending on December 31, 2009” for
15 “beginning on August 28, 2005, and ending on
16 December 31, 2007” in paragraph (2) thereof.

17 (4) TREATMENT OF NET OPERATING LOSSES
18 ATTRIBUTABLE TO STORM LOSSES.—Section
19 1400N(k) of such Code—

20 (A) by substituting “qualified Recovery As-
21 sistance loss” for “qualified Gulf Opportunity
22 Zone loss” each place it appears,

23 (B) by substituting “after May 3, 2007,
24 and before on January 1, 2010” for “after Au-

1 gust 27, 2005, and before January 1, 2008”
2 each place it appears,

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

6 (D) by substituting “qualified Recovery
7 Assistance property” for “qualified Gulf Oppor-
8 tunity Zone property” in paragraph (2)(B)(iv)
9 thereof, and

10 (E) by substituting “qualified Recovery As-
11 sistance casualty loss” for “qualified Gulf Op-
12 portunity Zone casualty loss” each place it ap-
13 pears.

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

16 (A) by substituting “qualified Recovery As-
17 sistance distribution” for “qualified hurricane
18 distribution” each place it appears,

19 (B) by substituting “on or after May 4,
20 2007, and before January 1, 2009” for “on or
21 after August 25, 2005, and before January 1,
22 2007” in subsection (a)(4)(A)(i),

23 (C) by substituting “May 4, 2007” for
24 “August 28, 2005” in subsections (a)(4)(A)(i)
25 and (c)(3)(B),

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

3 (E) by substituting “qualified storm dis-
4 tribution” for “qualified Katrina distribution”
5 each place it appears,

6 (F) by substituting “after November 4,
7 2006, and before May 5, 2007” for “after Feb-
8 ruary 28, 2005, and before August 29, 2005”
9 in subsection (b)(2)(B)(ii),

10 (G) by substituting “the Kansas disaster
11 area (as defined in section 15345(b) of the
12 Food, Conservation, and Energy Act of 2008)
13 but which was not so purchased or constructed
14 on account of the May 4, 2007, storms and tor-
15 nados” for “the Hurricane Katrina disaster
16 area, but not so purchased or constructed on
17 account of Hurricane Katrina” in subsection
18 (b)(2)(B)(iii),

19 (H) by substituting “beginning on May 4,
20 2007, and ending on the date which is 5
21 months after the date of the enactment of the
22 Heartland, Habitat, Harvest, and Horticulture
23 Act of 2008” for “beginning on August 25,
24 2005, and ending on February 28, 2006” in
25 subsection (b)(3)(A),

1 (I) by substituting “qualified storm indi-
2 vidual” for “qualified Hurricane Katrina indi-
3 vidual” each place it appears,

4 (J) by substituting “December 31, 2008”
5 for “December 31, 2006” in subsection
6 (c)(2)(A),

7 (K) by substituting “beginning on the date
8 of the enactment of the Food, Conservation,
9 and Energy Act of 2008 and ending on Decem-
10 ber 31, 2008” for “beginning on September 24,
11 2005, and ending on December 31, 2006” in
12 subsection (c)(4)(A)(i),

13 (L) by substituting “May 4, 2007” for
14 “August 25, 2005” in subsection (c)(4)(A)(ii),
15 and

16 (M) by substituting “January 1, 2009” for
17 “January 1, 2007” in subsection (d)(2)(A)(ii).

18 (6) EMPLOYEE RETENTION CREDIT FOR EM-
19 PLOYERS AFFECTED BY MAY 4 STORMS AND TOR-
20 NADOS.—Section 1400R(a) of the Internal Revenue
21 Code of 1986—

22 (A) by substituting “May 4, 2007” for
23 “August 28, 2005” each place it appears,

24 (B) by substituting “January 1, 2008” for
25 “January 1, 2006” both places it appears, and

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

5 (7) SUSPENSION OF CERTAIN LIMITATIONS ON
6 PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1)
7 of the Internal Revenue Code of 1986, by sub-
8 stituting “May 4, 2007” for “August 25, 2005”.

9 (8) EXTENSION OF REPLACEMENT PERIOD FOR
10 NONRECOGNITION OF GAIN.—Section 405 of the
11 Katrina Emergency Tax Relief Act of 2005, by sub-
12 stituting “on or after May 4, 2007” for “on or after
13 August 25, 2005”.

14 **SEC. 15346. COMPETITIVE CERTIFICATION AWARDS MODI-**
15 **FICATION AUTHORITY.**

16 (a) IN GENERAL.—Section 48A (relating to quali-
17 fying advanced coal project credit) is amended by adding
18 at the end the following new subsection:

19 “(h) COMPETITIVE CERTIFICATION AWARDS MODI-
20 FICATION AUTHORITY.—In implementing this section or
21 section 48B, the Secretary is directed to modify the terms
22 of any competitive certification award and any associated
23 closing agreement where such modification—

24 “(1) is consistent with the objectives of such
25 section,

1 “(2) is requested by the recipient of the com-
2 petitive certification award, and

3 “(3) involves moving the project site to improve
4 the potential to capture and sequester carbon dioxide
5 emissions, reduce costs of transporting feedstock,
6 and serve a broader customer base,
7 unless the Secretary determines that the dollar amount
8 of tax credits available to the taxpayer under such section
9 would increase as a result of the modification or such
10 modification would result in such project not being origi-
11 nally certified. In considering any such modification, the
12 Secretary shall consult with other relevant Federal agen-
13 cies, including the Department of Energy.”.

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

20 **PART IV—OTHER REVENUE PROVISIONS**

21 **SEC. 15351. LIMITATION ON EXCESS FARM LOSSES OF CER-**
22 **TAIN TAXPAYERS.**

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

1 “(j) LIMITATION ON EXCESS FARM LOSSES OF CER-
2 TAIN TAXPAYERS.—

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

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

12 “(3) APPLICABLE SUBSIDY.—For purposes of
13 this subsection, the term ‘applicable subsidy’
14 means—

15 “(A) any direct or counter-cyclical pay-
16 ment under title I of the Food, Conservation,
17 and Energy Act of 2008, or any payment elect-
18 ed to be received in lieu of any such payment,
19 or

20 “(B) any Commodity Credit Corporation
21 loan.

22 “(4) EXCESS FARM LOSS.—For purposes of this
23 subsection—

24 “(A) IN GENERAL.—The term ‘excess farm
25 loss’ means the excess of—

1 “(i) the aggregate deductions of the
2 taxpayer for the taxable year which are at-
3 tributable to farming businesses of such
4 taxpayer (determined without regard to
5 whether or not such deductions are dis-
6 allowed for such taxable year under para-
7 graph (1)), over

8 “(ii) the sum of—

9 “(I) the aggregate gross income
10 or gain of such taxpayer for the tax-
11 able year which is attributable to such
12 farming businesses, plus

13 “(II) the threshold amount for
14 the taxable year.

15 “(B) THRESHOLD AMOUNT.—

16 “(i) IN GENERAL.—The term ‘thresh-
17 old amount’ means, with respect to any
18 taxable year, the greater of—

19 “(I) \$300,000 (\$150,000 in the
20 case of married individuals filing sepa-
21 rately), or

22 “(II) the excess (if any) of the
23 aggregate amounts described in sub-
24 paragraph (A)(ii)(I) for the 5-con-
25 secutive taxable year period preceding

1 the taxable year over the aggregate
2 amounts described in subparagraph
3 (A)(i) for such period.

4 “(ii) SPECIAL RULES FOR DETER-
5 MINING AGGREGATE AMOUNTS.—For pur-
6 poses of clause (i)(II)—

7 “(I) notwithstanding the dis-
8 regard in subparagraph (A)(i) of any
9 disallowance under paragraph (1), in
10 the case of any loss which is carried
11 forward under paragraph (2) from
12 any taxable year, such loss (or any
13 portion thereof) shall be taken into
14 account for the first taxable year in
15 which a deduction for such loss (or
16 portion) is not disallowed by reason of
17 this subsection, and

18 “(II) the Secretary shall pre-
19 scribe rules for the computation of the
20 aggregate amounts described in such
21 clause in cases where the filing status
22 of the taxpayer is not the same for
23 the taxable year and each of the tax-
24 able years in the period described in
25 such clause.

1 “(C) FARMING BUSINESS.—

2 “(i) IN GENERAL.—The term ‘farming
3 business’ has the meaning given such term
4 in section 263A(e)(4).

5 “(ii) CERTAIN TRADES AND BUSI-
6 NESSES INCLUDED.—If, without regard to
7 this clause, a taxpayer is engaged in a
8 farming business with respect to any agri-
9 cultural or horticultural commodity—

10 “(I) the term ‘farming business’
11 shall include any trade or business of
12 the taxpayer of the processing of such
13 commodity (without regard to whether
14 the processing is incidental to the
15 growing, raising, or harvesting of such
16 commodity), and

17 “(II) if the taxpayer is a member
18 of a cooperative to which subchapter
19 T applies, any trade or business of the
20 cooperative described in subclause (I)
21 shall be treated as the trade or busi-
22 ness of the taxpayer.

23 “(D) CERTAIN LOSSES DISREGARDED.—

24 For purposes of subparagraph (A)(i), there
25 shall not be taken into account any deduction

1 for any loss arising by reason of fire, storm, or
2 other casualty, or by reason of disease or
3 drought, involving any farming business.

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

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

9 “(B) each partner’s or shareholder’s pro-
10 portionate share of the items of income, gain,
11 or deduction of the partnership or S corpora-
12 tion for any taxable year from farming busi-
13 nesses attributable to the partnership or S cor-
14 poration, and of any applicable subsidies re-
15 ceived by the partnership or S corporation dur-
16 ing the taxable year, shall be taken into account
17 by the partner or shareholder in applying this
18 subsection to the taxable year of such partner
19 or shareholder with or within which the taxable
20 year of the partnership or S corporation ends.

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

1 “(6) ADDITIONAL REPORTING.—The Secretary
2 may prescribe such additional reporting require-
3 ments as the Secretary determines appropriate to
4 carry out the purposes of this subsection.

5 “(7) COORDINATION WITH SECTION 469.—This
6 subsection shall be applied before the application of
7 section 469.”.

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

11 **SEC. 15352. MODIFICATION TO OPTIONAL METHOD OF COM-**
12 **PUTING NET EARNINGS FROM SELF-EMPLOY-**
13 **MENT.**

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

16 (1) IN GENERAL.—The matter following para-
17 graph (17) of section 1402(a) is amended—

18 (A) by striking “\$2,400” each place it ap-
19 pears and inserting “the upper limit”, and

20 (B) by striking “\$1,600” each place it ap-
21 pears and inserting “the lower limit”.

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

24 “(l) UPPER AND LOWER LIMITS.—For purposes of
25 subsection (a)—

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

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

10 (b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

11 (1) IN GENERAL.—The matter following para-
12 graph (16) of section 211(a) of the Social Security
13 Act is amended—

14 (A) by striking “\$2,400” each place it ap-
15 pears and inserting “the upper limit”, and

16 (B) by striking “\$1,600” each place it ap-
17 pears and inserting “the lower limit”.

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

21 “(k) UPPER AND LOWER LIMITS.—For purposes of
22 subsection (a)—

23 “(1) The lower limit for any taxable year is the
24 sum of the amounts required under section 213(d)
25 for a quarter of coverage in effect with respect to

1 each calendar quarter ending with or within such
2 taxable year.

3 “(2) The upper limit for any taxable year is the
4 amount equal to 150 percent of the lower limit for
5 such taxable year.”.

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

8 (A) in subsection (b), by striking “For”
9 and inserting “Except as provided in subsection
10 (c), for”; and

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

13 “(c) For the purpose of determining average indexed
14 monthly earnings, average monthly wage, and quarters of
15 coverage in the case of any individual who elects the option
16 described in clause (ii) or (iv) in the matter following sec-
17 tion 211(a)(16) for any taxable year that does not begin
18 with or during a particular calendar year and end with
19 or during such year, the self-employment income of such
20 individual deemed to be derived during such taxable year
21 shall be allocated to the two calendar years, portions of
22 which are included within such taxable year, in the same
23 proportion to the total of such deemed self-employment
24 income as the sum of the amounts applicable under section
25 213(d) for the calendar quarters ending with or within

1 each such calendar year bears to the lower limit for such
2 taxable year specified in section 211(k)(1).”.

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

6 **SEC. 15353. INFORMATION REPORTING FOR COMMODITY**
7 **CREDIT CORPORATION TRANSACTIONS.**

8 (a) IN GENERAL.—Subpart A of part III of sub-
9 chapter A of chapter 61 (relating to information con-
10 cerning persons subject to special provisions) is amended
11 by inserting after section 6039I the following new section:

12 **“SEC. 6039J. INFORMATION REPORTING WITH RESPECT TO**
13 **COMMODITY CREDIT CORPORATION TRANS-**
14 **ACTIONS.**

15 “(a) REQUIREMENT OF REPORTING.—The Com-
16 modity Credit Corporation, through the Secretary of Agri-
17 culture, shall make a return, according to the forms and
18 regulations prescribed by the Secretary of the Treasury,
19 setting forth any market gain realized by a taxpayer dur-
20 ing the taxable year in relation to the repayment of a loan
21 issued by the Commodity Credit Corporation, without re-
22 gard to the manner in which such loan was repaid.

23 “(b) STATEMENTS TO BE FURNISHED TO PERSONS
24 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—
25 The Secretary of Agriculture shall furnish to each person

1 whose name is required to be set forth in a return required
2 under subsection (a) a written statement showing the
3 amount of market gain reported in such return.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for subpart A of part III of subchapter A of chapter 61
6 is amended by inserting after the item relating to section
7 6039I the following new item:

“Sec. 6039J. Information reporting with respect to Commodity Credit Corpora-
tion transactions.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to loans repaid on or after January
10 1, 2007.

11 **PART V—PROTECTION OF SOCIAL SECURITY**

12 **SEC. 15361. PROTECTION OF SOCIAL SECURITY.**

13 To ensure that the assets of the trust funds estab-
14 lished under section 201 of the Social Security Act (42
15 U.S.C. 401) are not reduced as a result of the enactment
16 of this Act, the Secretary of the Treasury shall transfer
17 annually from the general revenues of the Federal Govern-
18 ment to those trust funds the following amounts:

19 (1) For fiscal year 2009, \$5,000,000.

20 (2) For fiscal year 2010, \$9,000,000.

21 (3) For fiscal year 2011, \$8,000,000.

22 (4) For fiscal year 2012, \$7,000,000.

23 (5) For fiscal year 2013, \$8,000,000.

24 (6) For fiscal year 2014, \$8,000,000.

1 (7) For fiscal year 2015, \$8,000,000.

2 (8) For fiscal year 2016, \$6,000,000.

3 (9) For fiscal year 2017, \$7,000,000.

4 **Subtitle D—Trade Provisions**

5 **PART I—EXTENSION OF CERTAIN TRADE**

6 **BENEFITS**

7 **SEC. 15401. SHORT TITLE.**

8 This part may be cited as the “Haitian Hemispheric
9 Opportunity through Partnership Encouragement Act of
10 2008” or the “HOPE II Act”.

11 **SEC. 15402. BENEFITS FOR APPAREL AND OTHER TEXTILE**

12 **ARTICLES.**

13 (a) VALUE-ADDED RULE.—Section 213A(b) of the
14 Caribbean Basin Economic Recovery Act (19 U.S.C.
15 2703a(b)) is amended as follows:

16 (1) The subsection heading is amended to read
17 as follows: “APPAREL AND OTHER TEXTILE ARTI-
18 CLES”.

19 (2) Paragraph (1) is amended to read as fol-
20 lows:

21 “(1) VALUE-ADDED RULE FOR APPAREL ARTI-
22 CLES.—

23 “(A) IN GENERAL.—Apparel articles de-
24 scribed in subparagraph (B) of a producer or
25 entity controlling production that are imported

1 directly from Haiti or the Dominican Republic
2 shall enter the United States free of duty dur-
3 ing an applicable 1-year period, subject to the
4 limitations set forth in subparagraphs (B) and
5 (C), and subject to subparagraph (D).”.

6 (3) Paragraph (2) is amended—

7 (A) in subparagraph (A)—

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

10 (ii) in clause (i), by striking “subpara-
11 graph (C)” and inserting “clause (iii)”;

12 (iii) in clause (ii), by striking “sub-
13 paragraph (C)” and inserting “clause
14 (iii)”;

15 (iv) in the matter following clause (ii),
16 by striking “subparagraph (E)(I)” and in-
17 serting “clause (v)(I)”;

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

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

23 (B) in subparagraph (B)—

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

1 (ii) by striking “subparagraph (A)(i)”
2 each place it appears and inserting “clause
3 (i)(I)”;

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

7 (iv) by redesignating subparagraph
8 (B) as clause (ii);
9 (C) in subparagraph (C)—

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

12 (ii) in the matter preceding clause (i),
13 by striking “subparagraph (A)” and insert-
14 ing “clause (i)”;

15 (iii) in clause (ii), by striking “that
16 enters into force” and all that follows
17 through “et seq.)” and inserting “that en-
18 ters into force thereafter”;

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

22 (v) by redesignating subparagraph (C)
23 as clause (iii);
24 (D) in subparagraph (D)—

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

3 (ii) in clause (i)—

4 (I) in the matter preceding sub-
5 clause (I), by striking “subparagraph
6 (A)” and inserting “clause (i)”;

7 (II) in subclause (I), by striking
8 “clause (i) of subparagraph (A)” and
9 inserting “subclause (I) of clause (i)”;

10 (III) in subclause (II), by strik-
11 ing “clause (ii) of subparagraph (A)”
12 and inserting “subclause (II) of clause
13 (i)”;

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

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

19 (iii) in clause (ii)—

20 (I) in the matter preceding sub-
21 clause (I), by striking “subparagraph
22 (A)” and inserting “clause (i)”;

23 (II) in subclause (I), by striking
24 “clause (i) of subparagraph (A)” and
25 inserting “subclause (I) of clause (i)”;

1 (III) in subclause (II), by strik-
2 ing “clause (ii) of subparagraph (A)”
3 and inserting “subclause (II) of clause
4 (i)”;

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

8 (V) by redesignating clause (ii)
9 as subclause (II);
10 (iv) in clause (iii)—

11 (I) by striking “clause (i)(I) or
12 (ii)(I)” each place it appears and in-
13 sserting “subclause (I)(aa) or
14 (II)(aa)”;

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

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

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

22 “(IV) INCLUSION IN CALCULA-
23 TION OF OTHER ARTICLES RECEIVING
24 PREFERENTIAL TREATMENT.—Entries
25 of apparel articles that receive pref-

1 differential treatment under any provision
2 of law other than this subparagraph
3 or are subject to the ‘General’ column
4 1 rate of duty under the HTS are not
5 included in the annual aggregation
6 under subclause (I) or (II) unless the
7 producer or entity controlling produc-
8 tion elects, at the time the annual ag-
9 gregation calculation is made, to in-
10 clude such entries in such aggrega-
11 tion.”; and

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

14 (E) in subparagraph (E)—

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

17 (ii) in clause (i)—

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

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

23 (iii) in clause (ii)—

24 (I) by striking “subparagraph
25 (C)” and inserting “clause (iii)”; and

- 1 (II) by redesignating clause (ii)
2 as subclause (II); and
3 (iv) by redesignating subparagraph
4 (E) as clause (v);
5 (F) in subparagraph (F)—
6 (i) by moving such subparagraph 2
7 ems to the right;
8 (ii) in clause (i)—
9 (I) by striking “The Bureau of
10 Customs and Border Protection” and
11 inserting “U.S. Customs and Border
12 Protection”;
13 (II) by striking “subparagraphs
14 (A) and (D)” and inserting “clauses
15 (i) and (iv)”; and
16 (III) by redesignating clause (i)
17 as subclause (I);
18 (iii) in clause (ii)—
19 (I) in the matter preceding sub-
20 clause (I)—
21 (aa) by striking “the Bureau
22 of Customs and Border Protec-
23 tion” and inserting “U.S. Cus-
24 toms and Border Protection”;

1 (bb) by striking “subpara-
2 graph (A)” each place it appears
3 and inserting “clause (i)”; and

4 (cc) by striking “subpara-
5 graph (D)” and inserting “clause
6 (iv)”;

7 (II) in subclause (I), by striking
8 “clause (i) of subparagraph (A)” and
9 inserting “subclause (I) of clause (i)”;

10 (III) in subclause (II), by strik-
11 ing “clause (ii) of subparagraph (A)”
12 and inserting “subclause (II) of clause
13 (i)”;

14 (IV) in the matter following sub-
15 clause (II), by striking “subparagraph
16 (E)(i)” and inserting “clause (v)(I)”;

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

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

22 (iv) in clause (iii)—

23 (I) in subclause (I)—

1 (aa) by striking “paragraph
2 (1)” and inserting “subpara-
3 graph (A)”; and

4 (bb) by striking “subpara-
5 graph (A) or (D)” and inserting
6 “clause (i) or (iv)”;

7 (II) in subclause (II), by striking
8 “clause (ii) of this subparagraph” and
9 inserting “subclause (II) of this
10 clause”;

11 (III) in the matter following sub-
12 clause (II)—

13 (aa) by striking “the Bureau
14 of Customs and Border Protec-
15 tion” each place it appears and
16 inserting “U.S. Customs and
17 Border Protection”; and

18 (bb) by striking “subclause
19 (II)” and inserting “item (bb)”;
20 and

21 (IV) in item (bb)—

22 (aa) by striking “paragraph
23 (1)” and inserting “subpara-
24 graph (A)”; and

1 (bb) by striking “subpara-
2 graph (A) or (D)” and inserting
3 “clause (i) or (iv)”; and

4 (V) in the matter following item
5 (bb), by striking “paragraph (1)” and
6 inserting “subparagraph (A)”;
7

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

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

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

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

18 (G) in subparagraph (G)—

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

21 (ii) in clause (i)—

22 (I) in the matter preceding sub-
23 clause (I), by striking “subparagraph
24 (A) or (D)” and inserting “clause (i)
or (iv)”;
25

(II) in subclause (II)—

1 (aa) in item (dd), by strik-
2 ing “under the Bipartisan Trade
3 Promotion Authority Act of
4 2002” and inserting “with re-
5 spect to the United States”; and
6 (bb) by redesignating items
7 (aa) through (dd) as subitems
8 (AA) through (DD), respectively;
9 (III) by redesignating subclauses
10 (I) and (II) as items (aa) and (bb),
11 respectively; and
12 (IV) by redesignating clause (i)
13 as subclause (I);
14 (iii) in clause (ii)—
15 (I) in subclause (I), by striking
16 “clause (i)(I)” and inserting “sub-
17 clause (I)(aa)”;
18 (II) in subclause (II), by striking
19 “clause (i)(II)” and inserting “sub-
20 clause (I)(bb)”;
21 (III) by redesignating subclauses
22 (I) and (II) as items (aa) and (bb),
23 respectively; and
24 (IV) by redesignating clause (ii)
25 as subclause (II); and

1 (iv) by redesignating subparagraph

2 (G) as clause (vii); and

3 (H) by striking “(2) APPAREL ARTICLES

4 DESCRIBED.—” and inserting the following:

5 “(B) APPAREL ARTICLES DESCRIBED.—”.

6 (4) Paragraph (3) is amended—

7 (A) by redesignating such paragraph as

8 subparagraph (C) and moving it 2 ems to the

9 right;

10 (B) by striking “paragraph (1)” each place

11 it appears and inserting “subparagraph (A)”;

12 and

13 (C) in the table—

14 (i) by striking “1.5 percent” and in-

15 serting “1.25 percent”;

16 (ii) by striking “1.75 percent” and in-

17 serting “1.25 percent”; and

18 (iii) by striking “2 percent” and in-

19 serting “1.25 percent”.

20 (5) The following is added after subparagraph

21 (C), as redesignated by paragraph (4)(A) of this

22 subsection:

23 “(D) OTHER PREFERENTIAL TREATMENT

24 NOT AFFECTED BY QUANTITATIVE LIMITA-

25 TIONS.—Any apparel article that qualifies for

1 preferential treatment under paragraph (2),
2 (3), (4), or (5) or any other provision of this
3 title shall not be subject to, or included in the
4 calculation of, the quantitative limitations under
5 subparagraph (C).”.

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

10 “(2) SPECIAL RULE FOR WOVEN ARTICLES AND
11 CERTAIN KNIT ARTICLES.—

12 “(A) SPECIAL RULE FOR ARTICLES OF
13 CHAPTER 62 OF THE HTS.—

14 “(i) GENERAL RULE.—Any apparel
15 article classifiable under chapter 62 of the
16 HTS that is wholly assembled, or knit-to-
17 shape, in Haiti from any combination of
18 fabrics, fabric components, components
19 knit-to-shape, or yarns and is imported di-
20 rectly from Haiti or the Dominican Repub-
21 lic shall enter the United States free of
22 duty, subject to clauses (ii) and (iii), with-
23 out regard to the source of the fabric, fab-
24 ric components, components knit-to-shape,
25 or yarns from which the article is made.

1 “(ii) LIMITATION.—The preferential
2 treatment described in clause (i) shall be
3 extended, in the 1-year period beginning
4 October 1, 2008, and in each of the 9 suc-
5 ceeding 1-year periods, to not more than
6 70,000,000 square meter equivalents of ap-
7 parel articles described in such clause.

8 “(iii) OTHER PREFERENTIAL TREAT-
9 MENT NOT AFFECTED BY QUANTITATIVE
10 LIMITATION.—Any apparel article that
11 qualifies for preferential treatment under
12 paragraph (1), (3), (4), or (5) or subpara-
13 graph (B) of this paragraph or any other
14 provision of this title shall not be subject
15 to, or included in the calculation of, the
16 quantitative limitation under clause (ii).

17 “(B) SPECIAL RULE FOR CERTAIN ARTI-
18 CLES OF CHAPTER 61 OF THE HTS.—

19 “(i) GENERAL RULE.—Any apparel
20 article classifiable under chapter 61 of the
21 HTS that is wholly assembled, or knit-to-
22 shape, in Haiti from any combination of
23 fabrics, fabric components, components
24 knit-to-shape, or yarns and is imported di-
25 rectly from Haiti or the Dominican Repub-

1 lic shall enter the United States free of
2 duty, subject to clauses (ii), (iii), and (iv),
3 without regard to the source of the fabric,
4 fabric components, components knit-to-
5 shape, or yarns from which the article is
6 made.

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

10 “(I) The following apparel arti-
11 cles of cotton, for men or boys, that
12 are classifiable under subheading
13 6109.10.00 of the HTS:

14 “(aa) All white T-shirts,
15 with short hemmed sleeves and
16 hemmed bottom, with crew or
17 round neckline or with V-neck
18 and with a mitered seam at the
19 center of the V, and without
20 pockets, trim, or embroidery.

21 “(bb) All white singlets,
22 without pockets, trim, or embroi-
23 dery.

24 “(cc) Other T-shirts, but not
25 including thermal undershirts.

1 “(iv) OTHER PREFERENTIAL TREAT-
2 MENT NOT AFFECTED BY QUANTITATIVE
3 LIMITATION.—Any apparel article that
4 qualifies for preferential treatment under
5 paragraph (1), (3), (4), or (5) or subpara-
6 graph (A) of this paragraph or any other
7 provision of this title shall not be subject
8 to, or included in the calculation of, the
9 quantitative limitation under clause (iii).”.

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

14 “(3) APPAREL AND OTHER ARTICLES SUBJECT
15 TO CERTAIN ASSEMBLY RULES.—

16 “(A) BRASSIERES.—Any apparel article
17 classifiable under subheading 6212.10 of the
18 HTS that is wholly assembled, or knit-to-shape,
19 in Haiti from any combination of fabrics, fabric
20 components, components knit-to-shape, or yarns
21 and is imported directly from Haiti or the Do-
22 minican Republic shall enter the United States
23 free of duty, without regard to the source of the
24 fabric, fabric components, components knit-to-
25 shape, or yarns from which the article is made.

1 “(B) OTHER APPAREL ARTICLES.—Any of
2 the following apparel articles that is wholly as-
3 sembled, or knit-to-shape, in Haiti from any
4 combination of fabrics, fabric components, com-
5 ponents knit-to-shape, or yarns and is imported
6 directly from Haiti or the Dominican Republic
7 shall enter the United States free of duty, with-
8 out regard to the source of the fabric, fabric
9 components, components knit-to-shape, or yarns
10 from which the article is made:

11 “(i) Any apparel article that is of a
12 type listed in chapter rule 3, 4, or 5 for
13 chapter 61 of the HTS (as such chapter
14 rules are contained in section A of the
15 Annex to Proclamation 8213 of the Presi-
16 dent of December 20, 2007) as being ex-
17 cluded from the scope of such chapter rule,
18 when such chapter rule is applied to deter-
19 mine whether an apparel article is an origi-
20 nating good for purposes of general note
21 29(n) to the HTS, except that, for pur-
22 poses of this clause, reference in such
23 chapter rules to ‘6104.12.00’ shall be
24 deemed to be a reference to ‘6104.19.60’.

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

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

11 “(C) LUGGAGE AND SIMILAR ITEMS.—Any
12 article classifiable under subheading 4202.12,
13 4202.22, 4202.32 or 4202.92 of the HTS that
14 is wholly assembled in Haiti and is imported di-
15 rectly from Haiti or the Dominican Republic
16 shall enter the United States free of duty, with-
17 out regard to the source of the fabric, compo-
18 nents, or materials from which the article is
19 made.

20 “(D) HEADGEAR.—Any article classifiable
21 under heading 6501, 6502, or 6504 of the
22 HTS, or under subheading 6505.90 of the
23 HTS, that is wholly assembled, knit-to-shape,
24 or formed in Haiti from any combination of
25 fabrics, fabric components, components knit-to-

1 shape, or yarns and is imported directly from
2 Haiti or the Dominican Republic shall enter the
3 United States free of duty, without regard to
4 the source of the fabric, fabric components,
5 components knit-to-shape, or yarns from which
6 the article is made.

7 “(E) CERTAIN SLEEPWEAR.—Any of the
8 following apparel articles that is wholly assem-
9 bled, or knit-to-shape, in Haiti from any com-
10 bination of fabrics, fabric components, compo-
11 nents knit-to-shape, or yarns and is imported
12 directly from Haiti or the Dominican Republic
13 shall enter the United States free of duty, with-
14 out regard to the source of the fabric, fabric
15 components, components knit-to-shape, or yarns
16 from which the article is made:

17 “(i) Pajama bottoms and other
18 sleepwear for women and girls, of cotton,
19 that are classifiable under subheading
20 6208.91.30, or of man-made fibers, that
21 are classifiable under subheading
22 6208.92.00.

23 “(ii) Pajama bottoms and other
24 sleepwear for girls, of other textile mate-

1 rials, that are classifiable under sub-
2 heading 6208.99.20.”.

3 (d) EARNED IMPORT ALLOWANCE RULES.—Section
4 231A(b) of the Caribbean Basin Economic Recovery Act
5 is amended by adding at the end the following new para-
6 graph:

7 “(4) EARNED IMPORT ALLOWANCE RULE.—

8 “(A) IN GENERAL.—Apparel articles whol-
9 ly assembled, or knit-to-shape, in Haiti from
10 any combination of fabrics, fabric components,
11 components knit-to-shape, or yarns and im-
12 ported directly from Haiti or the Dominican
13 Republic shall enter the United States free of
14 duty, without regard to the source of the fabric,
15 fabric components, components knit-to-shape,
16 or yarns from which the articles are made, if
17 such apparel articles are accompanied by an
18 earned import allowance certificate that reflects
19 the amount of credits equal to the total square
20 meter equivalents of such apparel articles, in
21 accordance with the program established under
22 subparagraph (B). For purposes of determining
23 the quantity of square meter equivalents under
24 this subparagraph, the conversion factors listed
25 in ‘Correlation: U.S. Textile and Apparel Indus-

1 try Category System with the Harmonized Tar-
2 iff Schedule of the United States of America,
3 2008’, or its successor publications, of the
4 United States Department of Commerce, shall
5 apply.

6 “(B) EARNED IMPORT ALLOWANCE PRO-
7 GRAM.—

8 “(i) ESTABLISHMENT.—The Secretary
9 of Commerce shall establish a program to
10 provide earned import allowance certifi-
11 cates to any producer or entity controlling
12 production for purposes of subparagraph
13 (A), based on the elements described in
14 clause (ii).

15 “(ii) ELEMENTS.—The elements re-
16 ferred to in clause (i) are the following:

17 “(I) One credit shall be issued to
18 a producer or an entity controlling
19 production for every three square
20 meter equivalents of qualifying woven
21 fabric or qualifying knit fabric that
22 the producer or entity controlling pro-
23 duction can demonstrate that it pur-
24 chased for the manufacture in Haiti
25 of articles like or similar to any article

1 eligible for preferential treatment
2 under subparagraph (A). The Sec-
3 retary of Commerce shall, if requested
4 by a producer or entity controlling
5 production, create and maintain an
6 account for such producer or entity
7 controlling production, into which
8 such credits shall be deposited.

9 “(II) Such producer or entity
10 controlling production may redeem
11 credits issued under subclause (I) for
12 earned import allowance certificates
13 reflecting such number of earned
14 credits as the producer or entity may
15 request and has available.

16 “(III) The Secretary of Com-
17 merce may require any textile mill or
18 other entity located in the United
19 States that exports to Haiti qualifying
20 woven fabric or qualifying knit fabric
21 to submit, upon such export or upon
22 request, documentation, such as a
23 Shipper’s Export Declaration, to the
24 Secretary of Commerce—

1 “(aa) verifying that the
2 qualifying woven fabric or quali-
3 fying knit fabric was exported to
4 a producer in Haiti or to an enti-
5 ty controlling production; and

6 “(bb) identifying such pro-
7 ducer or entity controlling pro-
8 duction, and the quantity and de-
9 scription of qualifying woven fab-
10 ric or qualifying knit fabric ex-
11 ported to such producer or entity
12 controlling production.

13 “(IV) The Secretary of Com-
14 merce may require that a producer or
15 entity controlling production submit
16 documentation to verify purchases of
17 qualifying woven fabric or qualifying
18 knit fabric.

19 “(V) The Secretary of Commerce
20 may make available to each person or
21 entity identified in documentation
22 submitted under subclause (III) or
23 (IV) information contained in such
24 documentation that relates to the pur-
25 chase of qualifying woven fabric or

1 qualifying knit fabric involving such
2 person or entity.

3 “(VI) The program under this
4 subparagraph shall be established so
5 as to allow, to the extent feasible, the
6 submission, storage, retrieval, and dis-
7 closure of information in electronic
8 format, including information with re-
9 spect to the earned import allowance
10 certificates required under subpara-
11 graph (A)(i).

12 “(VII) The Secretary of Com-
13 merce may reconcile discrepancies in
14 information provided under subclause
15 (III) or (IV) and verify the accuracy
16 of such information.

17 “(VIII) The Secretary of Com-
18 merce shall establish procedures to
19 carry out the program under this sub-
20 paragraph and may establish addi-
21 tional requirements to carry out this
22 subparagraph. Such additional re-
23 quirements may include—

24 “(aa) submissions by textile
25 mills or other entities in the

1 United States documenting ex-
2 ports of yarns wholly formed in
3 the United States to countries
4 described in paragraph (1)(B)(iii)
5 for the manufacture of qualifying
6 knit fabric; and

7 “(bb) procedures imposed on
8 producers or entities controlling
9 production to allow the Secretary
10 of Commerce to obtain and verify
11 information relating to the pro-
12 duction of qualifying knit fabric.

13 “(iii) QUALIFYING WOVEN FABRIC DE-
14 FINED.—For purposes of this subpara-
15 graph, the term ‘qualifying woven fabric’
16 means fabric wholly formed in the United
17 States from yarns wholly formed in the
18 United States, except that—

19 “(I) fabric otherwise eligible as
20 qualifying woven fabric shall not be
21 ineligible as qualifying woven fabric
22 because the fabric contains nylon fila-
23 ment yarn to which section
24 213(b)(2)(A)(vii)(IV) applies;

1 “(II) fabric that would otherwise
2 be ineligible as qualifying woven fabric
3 because the fabric contains yarns not
4 wholly formed in the United States
5 shall not be ineligible as qualifying
6 woven fabric if the total weight of all
7 such yarns is not more than 10 per-
8 cent of the total weight of the fabric;
9 and

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

15 “(iv) QUALIFYING KNIT FABRIC DE-
16 FINED.—For purposes of this subpara-
17 graph, the term ‘qualifying knit fabric’
18 means fabric or knit-to-shape components
19 wholly formed or knit-to-shape in any
20 country or any combination of countries
21 described in paragraph (1)(B)(iii), from
22 yarns wholly formed in the United States,
23 except that—

24 “(I) fabric or knit-to-shape com-
25 ponents otherwise eligible as quali-

1 fying knit fabric shall not be ineligible
2 as qualifying knit fabric because the
3 fabric or knit-to-shape components
4 contain nylon filament yarn to which
5 section 213(b)(2)(A)(vii)(IV) applies;

6 “(II) fabric or knit-to-shape com-
7 ponents that would otherwise be ineli-
8 gible as qualifying knit fabric because
9 the fabric or knit-to-shape components
10 contain yarns not wholly formed in
11 the United States shall not be ineli-
12 gible as qualifying knit fabric if the
13 total weight of all such yarns is not
14 more than 10 percent of the total
15 weight of the fabric or knit-to-shape
16 components; and

17 “(III) fabric or knit-to-shape
18 components otherwise eligible as
19 qualifying knit fabric shall not be in-
20 eligible as qualifying knit fabric be-
21 cause the fabric or knit-to-shape com-
22 ponents contain yarns covered by
23 clause (i) or (ii) of paragraph (5)(A).

24 “(C) REVIEW BY UNITED STATES GOVERN-
25 MENT ACCOUNTABILITY OFFICE.—The United

1 States Government Accountability Office shall
2 review the program established under subpara-
3 graph (B) annually for the purpose of evalu-
4 ating the effectiveness of, and making rec-
5 ommendations for improvements in, the pro-
6 gram.

7 “(D) ENFORCEMENT PROVISIONS.—

8 “(i) FRAUDULENT CLAIMS OF PREF-
9 ERENCE.—Any person who makes a false
10 claim for preference under the program es-
11 tablished under subparagraph (B) shall be
12 subject to any applicable civil or criminal
13 penalty that may be imposed under the
14 customs laws of the United States or
15 under title 18, United States Code.

16 “(ii) PENALTIES FOR OTHER FRAUDU-
17 LENT INFORMATION.—The Secretary of
18 Commerce may establish and impose pen-
19 alties for the submission to the Secretary
20 of Commerce of fraudulent information
21 under the program established under sub-
22 paragraph (B), other than a claim de-
23 scribed in clause (i).”.

1 (e) SHORT SUPPLY RULES.—Section 213A(b) of the
2 Caribbean Basin Economic Recovery Act is amended by
3 adding at the end the following:

4 “(5) SHORT SUPPLY PROVISION.—

5 “(A) IN GENERAL.—Any apparel article
6 that is wholly assembled, or knit-to-shape, in
7 Haiti from any combination of fabrics, fabric
8 components, components knit-to-shape, or yarns
9 and is imported directly from Haiti or the Do-
10 minican Republic shall enter the United States
11 free of duty, without regard to the source of the
12 fabrics, fabric components, components knit-to-
13 shape, or yarns from which the article is made,
14 if the fabrics, fabric components, components
15 knit-to-shape, or yarns comprising the compo-
16 nent that determines the tariff classification of
17 the article are of any of the following:

18 “(i) Fabrics or yarns, to the extent
19 that apparel articles of such fabrics or
20 yarns would be eligible for preferential
21 treatment, without regard to the source of
22 the fabrics or yarns, under Annex 401 of
23 the NAFTA.

24 “(ii) Fabrics or yarns, to the extent
25 that such fabrics or yarns are designated

1 as not being available in commercial quan-
2 tities for purposes of—

3 “(I) section 213(b)(2)(A)(v) of
4 this Act;

5 “(II) section 112(b)(5) of the Af-
6 rican Growth and Opportunity Act;

7 “(III) clause (i)(III) or (ii) of
8 section 204(b)(3)(B) of the Andean
9 Trade Preference Act; or

10 “(IV) any other provision, relat-
11 ing to determining whether a textile
12 or apparel article is an originating
13 good eligible for preferential treat-
14 ment, of a law that implements a free
15 trade agreement entered into by the
16 United States that is in effect at the
17 time the claim for preferential treat-
18 ment is made.

19 “(B) REMOVAL OF DESIGNATION OF FAB-
20 RICS OR YARNS NOT AVAILABLE IN COMMER-
21 CIAL QUANTITIES.—If the President determines
22 that—

23 “(i) any fabric or yarn described in
24 clause (i) of subparagraph (A) was deter-

1 mined to be eligible for preferential treat-
2 ment, or

3 “(ii) any fabric or yarn described in
4 clause (ii) of subparagraph (A) was des-
5 ignated as not being available in commer-
6 cial quantities,

7 on the basis of fraud, the President is author-
8 ized to remove the eligibility or designation (as
9 the case may be) of that fabric or yarn with re-
10 spect to articles entered after such removal.”.

11 (f) MISCELLANEOUS PROVISIONS.—

12 (1) RELATIONSHIP TO OTHER PREFERENTIAL
13 PROGRAMS.—Section 213A(b) of the Caribbean
14 Basin Economic Recovery Act is amended by adding
15 at the end the following:

16 “(6) OTHER PREFERENTIAL TREATMENT NOT
17 AFFECTED.—The duty-free treatment provided
18 under this subsection is in addition to any other
19 preferential treatment under this title.”.

20 (2) DEFINITIONS.—Section 213A(a) of the Car-
21 ibbean Basin Economic Recovery Act (19 U.S.C.
22 2703a(a)) is amended by adding at the end the fol-
23 lowing:

1 “(3) IMPORTED DIRECTLY FROM HAITI OR THE
2 DOMINICAN REPUBLIC.—Articles are ‘imported di-
3 rectly from Haiti or the Dominican Republic’ if—

4 “(A) the articles are shipped directly from
5 Haiti or the Dominican Republic into the
6 United States without passing through the ter-
7 ritory of any intermediate country; or

8 “(B) the articles are shipped from Haiti or
9 the Dominican Republic into the United States
10 through the territory of an intermediate coun-
11 try, and—

12 “(i) the articles in the shipment do
13 not enter into the commerce of any inter-
14 mediate country, and the invoices, bills of
15 lading, and other shipping documents
16 specify the United States as the final des-
17 tination; or

18 “(ii) the invoices and other documents
19 do not specify the United States as the
20 final destination, but the articles in the
21 shipment—

22 “(I) remain under the control of
23 the customs authority in the inter-
24 mediate country;

1 “(II) do not enter into the com-
2 merce of the intermediate country ex-
3 cept for the purpose of a sale other
4 than at retail; and

5 “(III) have not been subjected to
6 operations in the intermediate country
7 other than loading, unloading, or
8 other activities necessary to preserve
9 the articles in good condition.

10 “(4) KNIT-TO-SHAPE.—A good is ‘knit-to-
11 shape’ if 50 percent or more of the exterior surface
12 area of the good is formed by major parts that have
13 been knitted or crocheted directly to the shape used
14 in the good, with no consideration being given to
15 patch pockets, appliqués, or the like. Minor cutting,
16 trimming, or sewing of those major parts shall not
17 affect the determination of whether a good is ‘knit-
18 to-shape.’

19 “(5) WHOLLY ASSEMBLED.—A good is ‘wholly
20 assembled’ in Haiti if all components, of which there
21 must be at least two, pre-existed in essentially the
22 same condition as found in the finished good and
23 were combined to form the finished good in Haiti.
24 Minor attachments and minor embellishments (for
25 example, appliqués, beads, spangles, embroidery, and

1 buttons) not appreciably affecting the identity of the
2 good, and minor subassemblies (for example, collars,
3 cuffs, plackets, and pockets), shall not affect the de-
4 termination of whether a good is ‘wholly assembled’
5 in Haiti.”.

6 (g) TERMINATION.—Section 213A of the Caribbean
7 Basin Economic Recovery Act (19 U.S.C. 2703a) is
8 amended by adding at the end the following new sub-
9 section:

10 “(g) TERMINATION.—Except as provided in sub-
11 section (b)(1), the duty-free treatment provided under this
12 section shall remain in effect until September 30, 2018.”.

13 (h) CONFORMING AMENDMENTS.—Subsection (e)(1)
14 of section 213A of the Caribbean Basin Economic Recov-
15 ery Act (19 U.S.C. 2703a(e)(1)) is amended by striking
16 “the Bureau of Customs and Border Protection” each
17 place it appears and inserting “U.S. Customs and Border
18 Protection”.

19 **SEC. 15403. LABOR OMBUDSMAN AND TECHNICAL ASSIST-**
20 **ANCE IMPROVEMENT AND COMPLIANCE**
21 **NEEDS ASSESSMENT AND REMEDIATION PRO-**
22 **GRAM.**

23 Section 213A of the Caribbean Basin Economic Re-
24 covery Act (19 U.S.C. 2703a), as amended by section
25 15402 of this Act, is amended—

1 (1) in subsection (a)—

2 (A) by redesignating paragraph (5) as
3 paragraph (8):

4 (B) by redesignating paragraphs (2)
5 through (4) as paragraphs (4) through (6), re-
6 spectively;

7 (C) by inserting after paragraph (1) the
8 following new paragraphs:

9 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
10 TEES.— The term “appropriate congressional com-
11 mittees” means the Committee on Finance of the
12 Senate and the Committee on Ways and Means of
13 the House of Representatives.

14 “(3) CORE LABOR STANDARDS.—The term
15 “core labor standards” means—

16 “(A) freedom of association;

17 “(B) the effective recognition of the right
18 to bargain collectively;

19 “(C) the elimination of all forms of com-
20 pulsory or forced labor;

21 “(D) the effective abolition of child labor
22 and a prohibition on the worst forms of child
23 labor; and

24 “(E) the elimination of discrimination in
25 respect of employment and occupation.”; and

1 (D) by inserting after paragraph (6) (as
2 redesignated) the following new paragraph:

3 “(7) TAICNAR PROGRAM.—The term
4 ‘TAICNAR Program’ means the Technical Assist-
5 ance Improvement and Compliance Needs Assess-
6 ment and Remediation Program established pursu-
7 ant to subsection (e).”;

8 (2) by redesignating subsections (e), (f), and
9 (g) as subsections (f), (g), and (h), respectively; and

10 (3) by inserting after subsection (d) the fol-
11 lowing new subsection:

12 “(e) TECHNICAL ASSISTANCE IMPROVEMENT AND
13 COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION
14 PROGRAM.—

15 “(1) CONTINUED ELIGIBILITY FOR PREF-
16 ERENCES.—

17 “(A) PRESIDENTIAL CERTIFICATION OF
18 COMPLIANCE BY HAITI WITH REQUIREMENTS.—

19 Upon the expiration of the 16-month period be-
20 ginning on the date of the enactment of the
21 Haitian Hemispheric Opportunity through
22 Partnership Encouragement Act of 2008, Haiti
23 shall continue to be eligible for the preferential
24 treatment provided under subsection (b) only if

1 the President determines and certifies to the
2 Congress that—

3 “(i) Haiti has implemented the re-
4 quirements set forth in paragraphs (2) and
5 (3); and

6 “(ii) Haiti has agreed to require pro-
7 ducers of articles for which duty-free treat-
8 ment may be requested under subsection
9 (b) to participate in the TAICNAR Pro-
10 gram described in paragraph (3) and has
11 developed a system to ensure participation
12 in such program by such producers, includ-
13 ing by developing and maintaining the reg-
14 istry described in paragraph (2)(B)(i).

15 “(B) EXTENSION.—The President may ex-
16 tend the period for compliance by Haiti under
17 subparagraph (A) if the President—

18 “(i) determines that Haiti has made a
19 good faith effort toward such compliance
20 and has agreed to take additional steps to
21 come into full compliance that are satisfac-
22 tory to the President; and

23 “(ii) provides to the appropriate con-
24 gressional committees, not later than 6
25 months after the last day of the 16-month

1 period specified in subparagraph (A), and
2 every 6 months thereafter, a report identi-
3 fying the steps that Haiti has agreed to
4 take to come into full compliance and the
5 progress made over the preceding 6-month
6 period in implementing such steps.

7 “(C) CONTINUING COMPLIANCE.—

8 “(i) TERMINATION OF PREFERENTIAL
9 TREATMENT.—If, after making a certifi-
10 cation under subparagraph (A), the Presi-
11 dent determines that Haiti is no longer
12 meeting the requirements set forth in sub-
13 paragraph (A), the President shall termi-
14 nate the preferential treatment provided
15 under subsection (b), unless the President
16 determines, after consulting with the ap-
17 propriate congressional committees, that
18 meeting such requirements is not prac-
19 ticable because of extraordinary cir-
20 cumstances existing in Haiti when the de-
21 termination is made.

22 “(ii) SUBSEQUENT COMPLIANCE.—If
23 the President, after terminating pref-
24 erential treatment under clause (i), deter-
25 mines that Haiti is meeting the require-

1 ments set forth in subparagraph (A), the
2 President shall reinstate the application of
3 preferential treatment under subsection
4 (b).

5 “(2) LABOR OMBUDSMAN.—

6 “(A) IN GENERAL.—The requirement
7 under this paragraph is that Haiti has estab-
8 lished an independent Labor Ombudsman’s Of-
9 fice within the national government that—

10 “(i) reports directly to the President
11 of Haiti;

12 “(ii) is headed by a Labor Ombuds-
13 man chosen by the President of Haiti, in
14 consultation with Haitian labor unions and
15 industry associations; and

16 “(iii) is vested with the authority to
17 perform the functions described in sub-
18 paragraph (B).

19 “(B) FUNCTIONS.—The functions of the
20 Labor Ombudsman’s Office shall include—

21 “(i) developing and maintaining a reg-
22 istry of producers of articles for which
23 duty-free treatment may be requested
24 under subsection (b), and developing, in
25 consultation and coordination with any

1 other appropriate officials of the Govern-
2 ment of Haiti, a system to ensure partici-
3 pation by such producers in the TAICNAR
4 Program described in paragraph (3);

5 “(ii) overseeing the implementation of
6 the TAICNAR Program described in para-
7 graph (3);

8 “(iii) receiving and investigating com-
9 ments from any interested party regarding
10 the conditions described in paragraph
11 (3)(B) in facilities of producers listed in
12 the registry described in clause (i) and,
13 where appropriate, referring such com-
14 ments or the result of such investigations
15 to the appropriate Haitian authorities, or
16 to the entity operating the TAICNAR Pro-
17 gram described in paragraph (3);

18 “(iv) assisting, in consultation and co-
19 ordination with any other appropriate Hai-
20 tian authorities, producers listed in the
21 registry described in clause (i) in meeting
22 the conditions set forth in paragraph
23 (3)(B); and

24 “(v) coordinating, with the assistance
25 of the entity operating the TAICNAR Pro-

1 gram described in paragraph (3), a tri-
2 partite committee comprised of appropriate
3 representatives of government agencies,
4 employers, and workers, as well as other
5 relevant interested parties, for the pur-
6 poses of evaluating progress in imple-
7 menting the TAICNAR Program described
8 in paragraph (3), and consulting on im-
9 proving core labor standards and working
10 conditions in the textile and apparel sector
11 in Haiti, and on other matters of common
12 concern relating to such core labor stand-
13 ards and working conditions.

14 “(3) TECHNICAL ASSISTANCE IMPROVEMENT
15 AND COMPLIANCE NEEDS ASSESSMENT AND REMEDI-
16 ATION PROGRAM.—

17 “(A) IN GENERAL.—The requirement
18 under this paragraph is that Haiti, in coopera-
19 tion with the International Labor Organization,
20 has established a Technical Assistance Improve-
21 ment and Compliance Needs Assessment and
22 Remediation Program meeting the requirements
23 under subparagraph (C)—

24 “(i) to assess compliance by producers
25 listed in the registry described in para-

1 graph (2)(B)(i) with the conditions set
2 forth in subparagraph (B) and to assist
3 such producers in meeting such conditions;
4 and

5 “(ii) to provide assistance to improve
6 the capacity of the Government of Haiti—

7 “(I) to inspect facilities of pro-
8 ducers listed in the registry described
9 in paragraph (2)(B)(i); and

10 “(II) to enforce national labor
11 laws and resolve labor disputes, in-
12 cluding through measures described in
13 subparagraph (E).

14 “(B) CONDITIONS DESCRIBED.—The con-
15 ditions referred to in subparagraph (A) are—

16 “(i) compliance with core labor stand-
17 ards; and

18 “(ii) compliance with the labor laws of
19 Haiti that relate directly to core labor
20 standards and to ensuring acceptable con-
21 ditions of work with respect to minimum
22 wages, hours of work, and occupational
23 health and safety.

1 “(C) REQUIREMENTS.—The requirements
2 for the TAICNAR Program are that the pro-
3 gram—

4 “(i) be operated by the International
5 Labor Organization (or any subdivision, in-
6 strumentality, or designee thereof), which
7 prepares the biannual reports described in
8 subparagraph (D);

9 “(ii) be developed through a
10 participatory process that includes the
11 Labor Ombudsman described in paragraph
12 (2) and appropriate representatives of gov-
13 ernment agencies, employers, and workers;

14 “(iii) assess compliance by each pro-
15 ducer listed in the registry described in
16 paragraph (2)(B)(i) with the conditions set
17 forth in subparagraph (B) and identify any
18 deficiencies by such producer with respect
19 to meeting such conditions, including by—

20 “(I) conducting unannounced site
21 visits to manufacturing facilities of
22 the producer;

23 “(II) conducting confidential
24 interviews separately with workers

1 and management of the facilities of
2 the producer;

3 “(III) providing to management
4 and workers, and where applicable,
5 worker organizations in the facilities
6 of the producer, on a confidential
7 basis—

8 “(aa) the results of the as-
9 sessment carried out under this
10 clause; and

11 “(bb) specific suggestions
12 for remediating any such defi-
13 ciencies;

14 “(iv) assist the producer in remedi-
15 ating any deficiencies identified under
16 clause (iii);

17 “(v) conduct prompt follow-up site
18 visits to the facilities of the producer to as-
19 sess progress on remediation of any defi-
20 ciencies identified under clause (iii); and

21 “(vi) provide training to workers and
22 management of the producer, and where
23 appropriate, to other persons or entities, to
24 promote compliance with subparagraph
25 (B).

1 “(D) BIENNIAL REPORT.—The biannual
2 reports referred to in subparagraph (C)(i) are a
3 report, by the entity operating the TAICNAR
4 Program, that is published (and available to the
5 public in a readily accessible manner) on a bi-
6 annual basis, beginning 6 months after Haiti
7 implements the TAICNAR Program under this
8 paragraph, covering the preceding 6-month pe-
9 riod, and that includes the following:

10 “(i) The name of each producer listed
11 in the registry described in paragraph
12 (2)(B)(i) that has been identified as having
13 met the conditions under subparagraph
14 (B).

15 “(ii) The name of each producer listed
16 in the registry described in paragraph
17 (2)(B)(i) that has been identified as having
18 deficiencies with respect to the conditions
19 under subparagraph (B), and has failed to
20 remedy such deficiencies.

21 “(iii) For each producer listed under
22 clause (ii)—

23 “(I) a description of the defi-
24 ciencies found to exist and the specific
25 suggestions for remediating such defi-

1 iciencies made by the entity operating
2 the TAICNAR Program;

3 “(II) a description of the efforts
4 by the producer to remediate the defi-
5 ciencies, including a description of as-
6 sistance provided by any entity to as-
7 sist in such remediation; and

8 “(III) with respect to deficiencies
9 that have not been remediated, the
10 amount of time that has elapsed since
11 the deficiencies were first identified in
12 a report under this subparagraph.

13 “(iv) For each producer identified as
14 having deficiencies with respect to the con-
15 ditions described under subparagraph (B)
16 in a prior report under this subparagraph,
17 a description of the progress made in re-
18 mediating such deficiencies since the sub-
19 mission of the prior report, and an assess-
20 ment of whether any aspect of such defi-
21 ciencies persists.

22 “(E) CAPACITY BUILDING.—The assist-
23 ance to the Government of Haiti referred to in
24 subparagraph (A)(ii) shall include programs—

1 “(i) to review the labor laws and regu-
2 lations of Haiti and to develop and imple-
3 ment strategies for bringing the laws and
4 regulations into conformity with core labor
5 standards;

6 “(ii) to develop additional strategies
7 for facilitating protection of core labor
8 standards and providing acceptable condi-
9 tions of work with respect to minimum
10 wages, hours of work, and occupational
11 safety and health, including through legal,
12 regulatory, and institutional reform;

13 “(iii) to increase awareness of worker
14 rights, including under core labor stand-
15 ards and national labor laws;

16 “(iv) to promote consultation and co-
17 operation between government representa-
18 tives, employers, worker representatives,
19 and United States importers on matters
20 relating to core labor standards and na-
21 tional labor laws;

22 “(v) to assist the Labor Ombudsman
23 appointed pursuant to paragraph (2) in es-
24 tablishing and coordinating operation of

1 the committee described in paragraph
2 (2)(B)(v);

3 “(vi) to assist worker representatives
4 in more fully and effectively advocating on
5 behalf of their members; and

6 “(vii) to provide on-the-job training
7 and technical assistance to labor inspec-
8 tors, judicial officers, and other relevant
9 personnel to build their capacity to enforce
10 national labor laws and resolve labor dis-
11 putes.

12 “(4) COMPLIANCE WITH ELIGIBILITY CRI-
13 TERIA.—

14 “(A) COUNTRY COMPLIANCE WITH WORK-
15 ER RIGHTS ELIGIBILITY CRITERIA.—In making
16 a determination of whether Haiti is meeting the
17 requirement set forth in subsection
18 (d)(1)(A)(vi) relating to internationally recog-
19 nized worker rights, the President shall con-
20 sider the reports produced under paragraph
21 (3)(D).

22 “(B) PRODUCER ELIGIBILITY.—

23 “(i) IDENTIFICATION OF PRO-
24 DUCERS.—Beginning in the second cal-
25 endar year after the President makes the

1 certification under paragraph (1)(A), the
2 President shall identify on a biennial basis
3 whether a producer listed in the registry
4 described in paragraph (2)(B)(i) has failed
5 to comply with core labor standards and
6 with the labor laws of Haiti that directly
7 relate to and are consistent with core labor
8 standards.

9 “(ii) ASSISTANCE TO PRODUCERS;
10 WITHDRAWAL, ETC., OF PREFERENTIAL
11 TREATMENT.—For each producer that the
12 President identifies under clause (i), the
13 President shall seek to assist such pro-
14 ducer in coming into compliance with core
15 labor standards and with the labor laws of
16 Haiti that directly relate to and are con-
17 sistent with core labor standards. If such
18 efforts fail, the President shall withdraw,
19 suspend, or limit the application of pref-
20 erential treatment under subsection (b) to
21 articles of such producer.

22 “(iii) REINSTATING PREFERENTIAL
23 TREATMENT.—If the President, after with-
24 drawing, suspending, or limiting the appli-
25 cation of preferential treatment under

1 clause (ii) to articles of a producer, deter-
2 mines that such producer is complying
3 with core labor standards and with the
4 labor laws of Haiti that directly relate to
5 and are consistent with core labor stand-
6 ards, the President shall reinstate the ap-
7 plication of preferential treatment under
8 subsection (b) to the articles of the pro-
9 ducer.

10 “(iv) CONSIDERATION OF REPORTS.—
11 In making the identification under clause
12 (i) and the determination under clause
13 (iii), the President shall consider the re-
14 ports made available under paragraph
15 (3)(D).

16 “(5) REPORTS BY THE PRESIDENT.—

17 “(A) IN GENERAL.—Not later than one
18 year after the date of the enactment of the Hai-
19 tian Hemispheric Opportunity through Partner-
20 ship Encouragement Act of 2008, and annually
21 thereafter, the President shall transmit to the
22 appropriate congressional committees a report
23 on the implementation of this subsection during
24 the preceding 1-year period.

1 “(B) MATTERS TO BE INCLUDED.—Each
2 report required by subparagraph (A) shall in-
3 clude the following:

4 “(i) An explanation of the efforts of
5 Haiti, the President, and the International
6 Labor Organization to carry out this sub-
7 section.

8 “(ii) A summary of each report pro-
9 duced under paragraph (3)(D) during the
10 preceding 1-year period and a summary of
11 the findings contained in such report.

12 “(iii) Identifications made under para-
13 graph (4)(B)(i) and determinations made
14 under paragraph (4)(B)(iii).

15 “(6) AUTHORIZATION OF APPROPRIATIONS.—
16 There is authorized to be appropriated to carry out
17 this subsection the sum of \$10,000,000 for the pe-
18 riod beginning on October 1, 2008, and ending on
19 September 30, 2013.”.

20 **SEC. 15404. PETITION PROCESS.**

21 Section 213A(d) of the Caribbean Basin Economic
22 Recovery Act (19 U.S.C. 2703A(d)) is amended by adding
23 at the end the following new paragraph:

24 “(4) PETITION PROCESS.—Any interested party
25 may file a request to have the status of Haiti re-

1 viewed with respect to the eligibility requirements
2 listed in paragraph (1), and the President shall pro-
3 vide for this purpose the same procedures as those
4 that are provided for reviewing the status of eligible
5 beneficiary developing countries with respect to the
6 designation criteria listed in subsections (b) and (c)
7 of section 502 of the Trade Act of 1974 (19 U.S.C.
8 2642 (b) and (c)).”.

9 **SEC. 15405. CONDITIONS REGARDING ENFORCEMENT OF**
10 **CIRCUMVENTION.**

11 Section 213A(f) of the Caribbean Basin Economic
12 Recovery Act, as redesignated by section 15403(2) of this
13 Act, is amended by adding at the end the following new
14 paragraph:

15 “(3) LIMITATION ON GOODS SHIPPED FROM
16 THE DOMINICAN REPUBLIC.—

17 “(A) LIMITATION.—Notwithstanding sub-
18 section (a)(5), relating to the definition of ‘im-
19 ported directly from Haiti or the Dominican
20 Republic’, articles described in subsection (b)
21 that are shipped from the Dominican Republic,
22 directly or through the territory of an inter-
23 mediate country, whether or not such articles
24 undergo processing in the Dominican Republic,
25 shall not be considered to be ‘imported directly

1 from Haiti or the Dominican Republic’ until the
2 President certifies to the Congress that Haiti
3 and the Dominican Republic have developed
4 procedures to prevent unlawful transshipment
5 of the articles and the use of counterfeit docu-
6 ments related to the importation of the articles
7 into the United States.

8 “(B) TECHNICAL AND OTHER ASSIST-
9 ANCE.—The Commissioner responsible for U.S.
10 Customs and Border Protection shall provide
11 technical and other assistance to Haiti and the
12 Dominican Republic to develop expeditiously the
13 procedures described in subparagraph (A).”.

14 **SEC. 15406. PRESIDENTIAL PROCLAMATION AUTHORITY.**

15 The President may exercise the authority under sec-
16 tion 604 of the Trade Act of 1974 to proclaim such modi-
17 fications to the Harmonized Tariff Schedule of the United
18 States as may be necessary to carry out this part and the
19 amendments made by this part.

20 **SEC. 15407. REGULATIONS AND PROCEDURES.**

21 The President shall issue such regulations as may be
22 necessary to carry out the amendments made by sections
23 15402, 15403, and 15404. Regulations to carry out the
24 amendments made by section 15402 shall be issued not
25 later than September 30, 2008. The Secretary of Com-

1 merce shall issue such procedures as may be necessary to
2 carry out the amendment made by section 15402(d) not
3 later than September 30, 2008.

4 **SEC. 15408. EXTENSION OF CBTPA.**

5 Section 213(b) of the Caribbean Basin Economic Re-
6 covery Act (19 U.S.C. 2703(b)) is amended—

7 (1) in paragraph (2)(A)—

8 (A) in clause (iii)—

9 (i) in subclause (II)(cc), by striking
10 “2008” and inserting “2010”; and

11 (ii) in subclause (IV)(dd), by striking
12 “2008” and inserting “2010”; and

13 (B) in clause (iv)(II), by striking “6” and
14 inserting “8”; and

15 (2) in paragraph (5)(D)—

16 (A) in clause (i), by striking “2008” and
17 inserting “2010”; and

18 (B) in clause (ii), by striking “108(b)(5)”
19 and inserting “section 108(b)(5)”.

20 **SEC. 15409. SENSE OF CONGRESS ON INTERPRETATION OF**
21 **TEXTILE AND APPAREL PROVISIONS FOR**
22 **HAITI.**

23 It is the sense of the Congress that the executive
24 branch, particularly the Committee for the Implementa-
25 tion of Textile Agreements (CITA), U.S. Customs and

1 Border Protection of the Department of Homeland Secu-
2 rity, and the Department of Commerce, should interpret,
3 implement, and enforce the provisions of section 213A(b)
4 of the Caribbean Basin Economic Recovery Act, as
5 amended by section 15402 of this Act, relating to pref-
6 erential treatment of textile and apparel articles, broadly
7 in order to expand trade by maximizing opportunities for
8 imports of articles eligible for preferential treatment under
9 such section 213A(b).

10 **SEC. 15410. SENSE OF CONGRESS ON TRADE MISSION TO**
11 **HAITI.**

12 It is the sense of the Congress that the Secretary of
13 Commerce, in coordination with the United States Trade
14 Representative, the Secretary of State, and the Commis-
15 sioner responsible for U.S. Customs and Border Protec-
16 tion of the Department of Homeland Security, should lead
17 a trade mission to Haiti, within 6 months after the date
18 of the enactment of this Act, to promote trade between
19 the United States and Haiti, to promote new economic op-
20 portunities afforded under the amendments made by sec-
21 tion 15402 of this Act, and to help educate United States
22 and Haitian business concerns about such opportunities.

23 **SEC. 15411. SENSE OF CONGRESS ON VISA SYSTEMS.**

24 It is the sense of the Congress that Haiti, and other
25 countries that receive preferences under trade preference

1 programs of the United States that require effective visa
2 systems to prevent transshipment, should ensure that
3 monetary compensation for such visas is not required be-
4 yond the costs of processing the visa, including ensuring
5 that such monetary compensation does not violate an ap-
6 plicable system to combat corruption and bribery.

7 **SEC. 15412. EFFECTIVE DATE.**

8 (a) IN GENERAL.—Except as provided in subsection
9 (b), this part and the amendments made by this part shall
10 take effect on the date of the enactment of this Act.

11 (b) EXCEPTION.—The amendments made by section
12 15402 shall take effect on October 1, 2008, and shall
13 apply to articles entered, or withdrawn from warehouse
14 for consumption, on or after that date.

15 **PART II—MISCELLANEOUS TRADE PROVISIONS**

16 **SEC. 15421. UNUSED MERCHANDISE DRAWBACK.**

17 (a) IN GENERAL.—Section 313(j)(2) of the Tariff
18 Act of 1930 (19 U.S.C. 1313(j)(2)) is amended by adding
19 at the end the following: “For purposes of subparagraph
20 (A) of this paragraph, wine of the same color having a
21 price variation not to exceed 50 percent between the im-
22 ported wine and the exported wine shall be deemed to be
23 commercially interchangeable.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall apply with respect to claims filed for

1 drawback under section 313(j)(2) of the Tariff Act of
2 1930 on or after the date of the enactment of this Act.

3 **SEC. 15422. REQUIREMENTS RELATING TO DETERMINA-**
4 **TION OF TRANSACTION VALUE OF IMPORTED**
5 **MERCHANDISE.**

6 (a) REQUIREMENT ON IMPORTERS.—

7 (1) IN GENERAL.—Pursuant to sections 484
8 and 485 of the Tariff Act of 1930 (19 U.S.C. 1484
9 and 1485), the Commissioner responsible for U.S.
10 Customs and Border Protection shall require each
11 importer of merchandise to provide to U.S. Customs
12 and Border Protection at the time of entry of the
13 merchandise the information described in paragraph
14 (2).

15 (2) INFORMATION REQUIRED.—The information
16 referred to in paragraph (1) is a declaration as to
17 whether the transaction value of the imported mer-
18 chandise is determined on the basis of the price paid
19 by the buyer in the first or earlier sale occurring
20 prior to introduction of the merchandise into the
21 United States.

22 (3) EFFECTIVE DATE.—The requirement to
23 provide information under this subsection shall be
24 effective for the 1-year period beginning 90 days
25 after the date of the enactment of this Act.

1 (b) REPORT TO INTERNATIONAL TRADE COMMIS-
2 SION.—

3 (1) IN GENERAL.—The Commissioner respon-
4 sible for U.S. Customs and Border Protection shall
5 submit to the United States International Trade
6 Commission on a monthly basis for the 1-year period
7 specified in subsection (a)(3) a report on the infor-
8 mation provided by importers under subsection
9 (a)(2) during the preceding month. The report re-
10 quired under this paragraph shall be submitted in a
11 form agreed upon between U.S. Customs and Border
12 Protection and the United States International
13 Trade Commission.

14 (2) MATTERS TO BE INCLUDED.—The report
15 required under paragraph (1) shall include—

16 (A) the number of importers that declare
17 the transaction value of the imported merchan-
18 dise is determined on the basis of the method
19 described in subsection (a)(2);

20 (B) the tariff classification of such im-
21 ported merchandise under the Harmonized Tar-
22 iff Schedule of the United States; and

23 (C) the transaction value of such imported
24 merchandise.

25 (c) REPORT TO CONGRESS.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the submission of the final report under subsection
3 (b), the United States International Trade Commis-
4 sion shall submit to the appropriate congressional
5 committees a report on the information contained in
6 all reports submitted under subsection (b).

7 (2) MATTERS TO BE INCLUDED.—The report
8 required under paragraph (1) shall include—

9 (A) the aggregate number of importers
10 that declare the transaction value of the im-
11 ported merchandise is determined on the basis
12 of the method described in subsection (a)(2), in-
13 cluding a description of the frequency of the use
14 of such method;

15 (B) the tariff classification of such im-
16 ported merchandise under the Harmonized Tar-
17 iff Schedule of the United States on an aggre-
18 gate basis, including an analysis of the tariff
19 classification of such imported merchandise on
20 a sectoral basis;

21 (C) the aggregate transaction value of such
22 imported merchandise, including an analysis of
23 the transaction value of such imported mer-
24 chandise on a sectoral basis; and

1 (D) the aggregate transaction value of all
2 merchandise imported into the United States
3 during the 1-year period specified in subsection
4 (a)(3).

5 (d) SENSE OF CONGRESS REGARDING PROHIBITION
6 ON PROPOSED INTERPRETATION OF THE TERM “SOLD
7 FOR EXPORTATION TO THE UNITED STATES”.—

8 (1) IN GENERAL.—It is the sense of Congress
9 that the Commissioner responsible for U.S. Customs
10 and Border Protection should not implement a
11 change to U.S. Customs and Border Protection’s in-
12 terpretation (as such interpretation is in effect on
13 the date of the enactment of this Act) of the term
14 “sold for exportation to the United States”, as de-
15 scribed in section 402(b) of the Tariff Act of 1930
16 (19 U.S.C. 1401a(b)), for purposes of applying the
17 transaction value of the imported merchandise in a
18 series of sales, before January 1, 2011.

19 (2) EXCEPTION.—It is the sense of Congress
20 that beginning on January 1, 2011, the Commis-
21 sioner responsible for U.S. Customs and Border
22 Protection may propose to change or change U.S.
23 Customs and Border Protection’s interpretation of
24 the term “sold for exportation to the United

1 States”, as described in paragraph (1), only if U.S.
2 Customs and Border Protection—

3 (A) consults with, and provides notice to,
4 the appropriate congressional committees—

5 (i) not less than 180 days prior to
6 proposing a change; and

7 (ii) not less than 90 days prior to
8 publishing a change;

9 (B) consults with, provides notice to, and
10 takes into consideration views expressed by, the
11 Commercial Operations Advisory Committee—

12 (i) not less than 120 days prior to
13 proposing a change; and

14 (ii) not less than 60 days prior to
15 publishing a change; and

16 (C) receives the explicit approval of the
17 Secretary of the Treasury prior to publishing a
18 change.

19 (3) CONSIDERATION OF INTERNATIONAL TRADE
20 COMMISSION REPORT.—It is the sense of Congress
21 that prior to publishing a change to U.S. Customs
22 and Border Protection’s interpretation (as such in-
23 terpretation is in effect on the date of the enactment
24 of this Act) of the term “sold for exportation to the
25 United States”, as described in section 402(b) of the

1 Tariff Act of 1930 (19 U.S.C. 1401a(b)), for pur-
2 poses of applying the transaction value of the im-
3 ported merchandise in a series of sales, the Commis-
4 sioner responsible for U.S. Customs and Border
5 Protection should take into consideration the mat-
6 ters included in the report prepared by the United
7 States International Trade Commission under sub-
8 section (c).

9 (e) DEFINITIONS.—In this section:

10 (1) APPROPRIATE CONGRESSIONAL COMMIT-
11 TEES.—The term “appropriate congressional com-
12 mittees” means the Committee on Ways and Means
13 of the House of Representatives and the Committee
14 on Finance of the Senate.

15 (2) COMMERCIAL OPERATIONS ADVISORY COM-
16 MITTEE.—The term “Commercial Operations Advi-
17 sory Committee” means the Advisory Committee es-
18 tablished pursuant to section 9503(c) of the Omni-
19 bus Budget Reconciliation Act of 1987 (19 U.S.C.
20 2071 note) or any successor committee.

21 (3) IMPORTER.—The term “importer” means
22 one of the parties qualifying as an “importer of
23 record” under section 484(a)(2)(B) in the Tariff Act
24 of 1930 (19 U.S.C. 1484(a)(2)(B)).

1 (4) TRANSACTION VALUE OF THE IMPORTED
2 MERCHANDISE.—The term “transaction value of the
3 imported merchandise” has the meaning described in
4 section 402(b) of the Tariff Act of 1930 (19 U.S.C.
5 1401a(b)).

6 And the Senate agree to the same.