

109TH CONGRESS
1ST SESSION

S. 2009

To provide assistance to agricultural producers whose operations were severely damaged by the hurricanes of 2005.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2005

Mr. MARTINEZ (for himself and Mr. NELSON of Florida) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide assistance to agricultural producers whose operations were severely damaged by the hurricanes of 2005.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Agriculture Hurricane Recovery Act of 2005”.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—CROP ASSISTANCE

Sec. 101. Crop disaster assistance.
Sec. 102. Nursery crops and tropical fruit producers.

Sec. 103. Citrus and vegetable assistance.
 Sec. 104. Sugar producers.

TITLE II—LIVESTOCK ASSISTANCE

Sec. 201. Livestock assistance program.

TITLE III—FORESTRY

Sec. 301. Tree assistance program.

TITLE IV—CONSERVATION

Sec. 401. Emergency conservation program.

TITLE V—LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS

Sec. 501. Emergency grants for low-income migrant and seasonal farmworkers.

TITLE VI—FISHERIES

Sec. 601. Fisheries assistance.

TITLE VII—TIMBER TAX RELIEF

Sec. 701. Timber tax relief for businesses affected by certain natural disasters.

TITLE VIII—MISCELLANEOUS

Sec. 801. Infrastructure losses.
 Sec. 802. Commodity Credit Corporation.
 Sec. 803. Emergency designation.
 Sec. 804. Regulations.

1 **SEC. 2. DEFINITIONS.**

2 Except as otherwise provided in this Act, in this Act:

3 (1) **ADDITIONAL COVERAGE.**—The term “addi-
 4 tional coverage” has the meaning given the term in
 5 section 502(b) of the Federal Crop Insurance Act (7
 6 U.S.C. 1502(b)).

7 (2) **CATASTROPHIC RISK PROTECTION.**—The
 8 term “catastrophic risk protection” means the level
 9 of insurance coverage provided under section 508(b)
 10 of the Federal Crop Insurance Act (7 U.S.C.
 11 1508(b)).

1 (3) DISASTER COUNTY.—The term “disaster
2 county” means a county included in the geographic
3 area covered by a natural disaster declaration due to
4 hurricanes in calendar year 2005—

5 (A) made by the Secretary under section
6 321(a) of the Consolidated Farm and Rural
7 Development Act (7 U.S.C. 1961(a)) due to
8 hurricanes in calendar year 2005; or

9 (B) made by the President under the Rob-
10 ert T. Stafford Disaster Relief and Emergency
11 Assistance Act (42 U.S.C. 5121 et seq.).

12 (4) INSURABLE COMMODITY.—The term “insur-
13 able commodity” means an agricultural commodity
14 for which producers are eligible to obtain a policy or
15 plan of insurance under the Federal Crop Insurance
16 Act (7 U.S.C. 1501 et seq.).

17 (5) NONINSURABLE COMMODITY.—The term
18 “noninsurable commodity” means an eligible crop
19 for which producers are eligible to obtain assistance
20 under section 196 of the Federal Agriculture Im-
21 provement and Reform Act of 1996 (7 U.S.C.
22 7333).

23 (6) SECRETARY.—The term “Secretary” means
24 the Secretary of Agriculture.

1 **TITLE I—CROP ASSISTANCE**

2 **SEC. 101. CROP DISASTER ASSISTANCE.**

3 (a) EMERGENCY ASSISTANCE.—

4 (1) IN GENERAL.—The Secretary shall use such
 5 sums as are necessary of funds of the Commodity
 6 Credit Corporation to make emergency assistance
 7 under this section to producers on a farm or aqua-
 8 culture operation (other than producers of sugar-
 9 cane) that meet the eligibility criteria of paragraph
 10 (2) in the same manner as provided under section
 11 815 of the Agriculture, Rural Development, Food
 12 and Drug Administration, and Related Agencies Ap-
 13 propriations Act, 2001 (Public Law 106–387; 114
 14 Stat. 1549A–55), including using the same loss
 15 thresholds for quantity and quality losses as were
 16 used in administering that section.

17 (2) ELIGIBILITY CRITERIA.—For producers de-
 18 scribed in paragraph (1) to be eligible for emergency
 19 assistance under this section—

20 (A) the farm or aquaculture operation
 21 must be located in a disaster county; and

22 (B) the producers must have incurred
 23 qualifying crop or quality losses with respect to
 24 the 2004, 2005, or 2006 crop (as elected by a
 25 producer), but limited to only 1 such crop, due

1 to damaging weather or related condition, as
2 determined by the Secretary.

3 (3) LIMITATION.—Qualifying crop losses for the
4 2006 crop are limited to only those losses caused by
5 a hurricane or tropical storm occurring during the
6 2005 hurricane season in disaster counties.

7 (b) INELIGIBILITY FOR ASSISTANCE.—Except as pro-
8 vided in subsection (c), the producers on a farm shall not
9 be eligible for assistance under this section with respect
10 to losses to an insurable commodity or noninsurable com-
11 modity if the producers on the farm—

12 (1) in the case of an insurable commodity, did
13 not obtain a policy or plan of insurance for the in-
14 surable commodity under the Federal Crop Insur-
15 ance Act (7 U.S.C. 1501 et seq.) for the crop incur-
16 ring the losses;

17 (2) in the case of a noninsurable commodity,
18 did not file the required paperwork, and pay the ad-
19 ministrative fee by the applicable State filing dead-
20 line, for the noninsurable commodity under section
21 196 of the Federal Agriculture Improvement and
22 Reform Act of 1996 (7 U.S.C. 7333) for the crop
23 incurring the losses;

24 (3) had an average adjusted gross income (as
25 defined in section 1001D of the Food Security Act

1 of 1985 (7 U.S.C. 1308–3a)) of greater than
2 \$2,500,000; or

3 (4) were not in compliance with highly erodible
4 land conservation and wetland conservation provi-
5 sions under subtitles B and C of title XII of the
6 Food Security Act of 1985 (16 U.S.C. 3811 et seq.).

7 (c) CONTRACT WAIVER.—The Secretary may waive
8 subsection (b) with respect to the producers on a farm
9 if the producers enter into a contract with the Secretary
10 under which the producers agree—

11 (1) in the case of all insurable commodities pro-
12 duced on the farm for each of the next 2 crop
13 years—

14 (A) to obtain additional coverage for those
15 commodities under the Federal Crop Insurance
16 Act (7 U.S.C. 1501 et seq.); and

17 (B) in the event of violation of the con-
18 tract, to repay to the Secretary any payment re-
19 ceived under this section; and

20 (2) in the case of all noninsurable commodities
21 produced on the farm for each of the next 2 crop or
22 calendar years, as applicable—

23 (A) to file the required paperwork, and pay
24 the administrative fee by the applicable State
25 filing deadline, for those commodities under sec-

tion 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333); and

(B) in the event of violation of the contract, to repay to the Secretary any payment received under this section.

(d) PAYMENT LIMITATIONS.—

(1) LIMIT ON AMOUNT OF ASSISTANCE.—Assistance provided under this section to the producers on a farm for losses to a crop, together with the amounts specified in paragraph (2) applicable to the same crop, may not exceed 95 percent of what the value of the crop would have been in the absence of the losses, as estimated by the Secretary.

(2) OTHER PAYMENTS.—In applying the limitation in paragraph (1), the Secretary shall include the following:

(A) Any crop insurance payment made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or payment under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) that the producers on the farm receive for losses to the same crop.

1 (B) The value of the crop that was not lost
 2 (if any), as estimated by the Secretary.

3 (e) CROP INSURANCE DEDUCTIBLES.—For the pur-
 4 pose of determining crop insurance payments under this
 5 section, the Secretary shall consider Hurricane Wilma as
 6 having occurred during the 2005 crop year.

7 **SEC. 102. NURSERY CROPS AND TROPICAL FRUIT PRO-**
 8 **DUCERS.**

9 (a) EMERGENCY FINANCIAL ASSISTANCE.—Notwith-
 10 standing section 508(b)(7) of the Federal Crop Insurance
 11 Act (7 U.S.C. 1508(b)(7)), the Secretary shall use such
 12 sums as are necessary of funds of the Commodity Credit
 13 Corporation to make emergency financial assistance avail-
 14 able to—

15 (1) commercial ornamental nursery and fernery
 16 producers in a disaster county for eligible inventory
 17 losses due to hurricanes in calendar year 2005; and

18 (2) tropical fruit producers in a disaster county
 19 who have suffered a loss of 35 percent or more rel-
 20 ative to their expected production (as defined in sec-
 21 tion 1480.3 of title 7, Code of Federal Regulations
 22 (or a successor regulation)) due to hurricanes in cal-
 23 endar year 2005.

24 (b) ADMINISTRATION.—

1 (1) DETERMINATION OF COMMERCIAL OPER-
 2 ATIONS.—For a nursery or fernery producer to be
 3 considered a commercial operation for purposes of
 4 subsection (a)(1) or (d)(1), the producer must be
 5 registered as a nursery or fernery producer in the
 6 State in which the producer conducts business.

7 (2) DETERMINATION OF ELIGIBLE INVEN-
 8 TORY.—For purposes of subsection (a)(1), eligible
 9 nursery and fernery inventory includes foliage, flori-
 10 culture, and woody ornamental crops, including—

11 (A) stock used for propagation; and

12 (B) fruit or nut seedlings grown for sale as
 13 seed stock for commercial orchard operations
 14 growing fruit or nuts.

15 (c) CALCULATION OF LOSSES AND PAYMENTS.—

16 (1) NURSERY AND FERNERY PRODUCERS.—

17 (A) IN GENERAL.—For purposes of sub-
 18 section (a)(1)—

19 (i) inventory losses for a nursery or
 20 fernery producer shall be determined on an
 21 individual-nursery or -fernery basis; and

22 (ii) the Secretary shall not offset in-
 23 ventory losses at 1 nursery or fernery loca-
 24 tion by salvaged inventory at another nurs-

1 ery or fernery operated by the same pro-
 2 ducer.

3 (B) AMOUNT.—The amount of payment to
 4 a nursery or fernery producer under subsection
 5 (a)(1) shall be equal to the product obtained by
 6 multiplying (as determined by the Secretary)—

7 (i) the difference between the pre-dis-
 8 aster and post-disaster inventory value, as
 9 determined by the Secretary using the
 10 wholesale price list of the producer, less
 11 the maximum customer discount provided
 12 by the producer, and not to exceed the
 13 prices in the Department of Agriculture
 14 publication entitled “Eligible Plant List
 15 and Price Schedule”;

16 (ii) 25 percent; and

17 (iii) the producer’s share of the loss.

18 (2) TROPICAL FRUIT PRODUCERS.—The
 19 amount of a payment to a tropical fruit producer
 20 under subsection (a)(2) shall be equal to the product
 21 obtained by multiplying (as determined by the Sec-
 22 retary)—

23 (A) the number of acres affected;

24 (B) the payment rate; and

25 (C) the producer’s share of the crop.

1 (3) PAYMENT LIMITATION.—The Secretary
2 shall not impose any payment limitation on an as-
3 sistance payment made to a nursery, fernery, or
4 tropical fruit producer under paragraph (1) or (2) of
5 subsection (a).

6 (d) DEBRIS-REMOVAL ASSISTANCE.—

7 (1) AVAILABILITY OF ASSISTANCE.—The Sec-
8 retary shall use such sums as are necessary of funds
9 of the Commodity Credit Corporation to make emer-
10 gency financial assistance available to commercial
11 ornamental nursery and fernery producers in a dis-
12 aster county to help cover costs incurred for debris
13 removal and associated cleanup due to hurricanes in
14 calendar year 2005.

15 (2) AMOUNT OF ASSISTANCE.—

16 (A) IN GENERAL.—Assistance under this
17 subsection may not exceed the actual costs in-
18 curred by the producer for debris removal and
19 cleanup or \$250 per acre, whichever is less.

20 (B) NO ADDITIONAL PAYMENT LIMITA-
21 TIONS.—Except as provided in subparagraph
22 (A), the Secretary shall not impose any limita-
23 tion on the maximum amount of payments that
24 a producer may receive under this subsection.

25 (e) NONDISCRIMINATION.—

1 (1) IN GENERAL.—Except as provided in para-
 2 graph (2), in carrying out this section, the Secretary
 3 shall not discriminate against or penalize producers
 4 that did not purchase crop insurance under the Fed-
 5 eral Crop Insurance Act (7 U.S.C. 1501 et seq.)
 6 with respect to an insurable commodity or did not
 7 file the required paperwork, and pay the administra-
 8 tive fee by the applicable State filing deadline, for
 9 assistance under section 196 of the Federal Agri-
 10 culture Improvement and Reform Act of 1996 (7
 11 U.S.C. 7333) with respect to a noninsurable com-
 12 modity.

13 (2) PENALTY.—In the case of a producer de-
 14 scribed in paragraph (1)—

15 (A) payment rates under this section shall
 16 be reduced by 5 percent; and

17 (B) the producer shall comply with sub-
 18 section (f).

19 (f) CONTRACT TO PROCURE CROP INSURANCE OR
 20 NAP.—In the case of a producer described in subsection
 21 (e)(1) who receives any assistance under this section, the
 22 producer shall be required to enter into a contract with
 23 the Secretary under which the producer agrees—

(1) in the case of all insurable commodities grown by the producer during the next available coverage period—

(A) to obtain at least catastrophic risk protection for those commodities under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

(B) in the event of violation of the contract, to repay to the Secretary any payment received under this section; and

(2) in the case of all noninsurable commodities grown by the producer during the next available coverage period—

(A) to file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for those commodities under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333); and

(B) in the event of violation of the contract, to repay to the Secretary any payment received under this section.

(g) RELATION TO OTHER ASSISTANCE.—

(1) LINK TO ACTUAL LOSSES.—Assistance provided under subsection (a) to a producer for losses

1 to a crop, together with the amounts specified in
2 paragraph (2) applicable to the same crop, may not
3 exceed 100 percent of what the value of the crop
4 would have been in the absence of the losses, as esti-
5 mated by the Secretary.

6 (2) OTHER PAYMENTS.—In applying the limita-
7 tion in paragraph (1), the Secretary shall include the
8 following:

9 (A) Any crop insurance payment made
10 under the Federal Crop Insurance Act (7
11 U.S.C. 1501 et seq.) or payment under section
12 196 of the Federal Agricultural Improvement
13 and Reform Act of 1996 (7 U.S.C. 7333) that
14 the producer receives for losses to the same
15 crop.

16 (B) Assistance received under any other
17 emergency crop loss authority.

18 (C) The value of the crop that was not lost
19 (if any), as estimated by the Secretary.

20 (h) ADJUSTED GROSS INCOME LIMITATION.—The
21 average adjusted gross income limitation specified in sec-
22 tion 1001D of the Food Security Act of 1985 (7 U.S.C.
23 1308–3a), shall apply to assistance provided under this
24 section.

1 **SEC. 103. CITRUS AND VEGETABLE ASSISTANCE.**

2 Notwithstanding any other provision of this Act or
3 any other law, the Secretary shall use such sums as are
4 necessary of funds of the Commodity Credit Corporation
5 to make emergency financial assistance authorized under
6 this section available to both citrus and vegetable pro-
7 ducers to carry out an assistance program similar to the
8 program entitled the “Florida Citrus Disaster Program”,
9 described at 69 Fed. Reg. 63134, October 29, 2004, Docu-
10 ment No. 04–24290 (relating to Florida citrus, fruit, vege-
11 table, and nursery crop disaster programs), except that
12 qualifying crop losses shall be limited to those losses
13 caused by a hurricane or tropical storm occurring during
14 the 2005 hurricane season in a disaster county.

15 **SEC. 104. SUGAR PRODUCERS.**

16 The Secretary shall use \$395,000,000 of the funds
17 of the Commodity Credit Corporation to make payments
18 to processors in Florida and Louisiana that are eligible
19 to obtain a loan under section 156(a) of the Federal Agri-
20 culture Improvement and Reform Act of 1996 (7 U.S.C.
21 7272(a)) to compensate first processors and producers for
22 crop and other losses that are related to hurricanes, trop-
23 ical storms, excessive rains, and floods occurring during
24 calendar year 2005, to be calculated and paid on the basis
25 of losses on 40-acre harvesting units, in disaster counties,
26 on the same terms and conditions, to the maximum extent

1 practicable, as payments made under section 102 of the
 2 Emergency Supplemental Appropriations for Hurricane
 3 Disasters Assistance Act, 2005 (Public Law 108–324; 118
 4 Stat. 1235).

5 **TITLE II—LIVESTOCK** 6 **ASSISTANCE**

7 **SEC. 201. LIVESTOCK ASSISTANCE PROGRAM.**

8 (a) EMERGENCY FINANCIAL ASSISTANCE.—

9 (1) IN GENERAL.—The Secretary shall use such
 10 sums as are necessary of funds of the Commodity
 11 Credit Corporation to make payments for livestock
 12 losses to producers for 2005 or 2006 losses (as elect-
 13 ed by a producer), but not both, in a county that
 14 has received an emergency disaster designation by
 15 the President after January 1, 2004.

16 (2) RESTRICTION.—In determining eligibility
 17 for assistance under this section, the Secretary shall
 18 not use the end date of the normal grazing period
 19 to determine the threshold of a 90-day loss of car-
 20 rying capacity.

21 (b) ADMINISTRATION.—Except as provided in sub-
 22 section (a), the Secretary shall make assistance available
 23 under this subsection in the same manner as provided
 24 under section 806 of the Agriculture, Rural Development,
 25 Food and Drug Administration, and Related Agencies Ap-

1 appropriations Act, 2001 (Public Law 106–387; 114 Stat.
2 1549A–51).

3 (c) MITIGATION.—In determining the eligibility for or
4 amount of payments for which a producer is eligible under
5 this section, the Secretary shall not penalize a producer
6 that takes actions (including recognizing disaster condi-
7 tions) that reduce the average number of livestock the pro-
8 ducer owned for grazing during the production year for
9 which assistance is being provided.

10 (d) INCLUSION OF POULTRY.—In providing assist-
11 ance under this section, the Secretary shall include poultry
12 within the definition of “livestock”.

13 **TITLE III—FORESTRY**

14 **SEC. 301. TREE ASSISTANCE PROGRAM.**

15 (a) SPECIFIC INCLUSION OF NURSERY TREES,
16 CHRISTMAS TREES, TIMBER AND FOREST PRODUCTS.—
17 Section 10201 of the Farm Security and Rural Investment
18 Act of 2002 (7 U.S.C. 8201) is amended by striking para-
19 graph (1) and inserting the following:

20 “(1) ELIGIBLE ORCHARDIST.—The term ‘eligi-
21 ble orchardist’ means—

22 “(A) a person that produces annual crops
23 from trees for commercial purposes;

24 “(B) a nursery grower that produces field-
25 grown trees, container-grown trees, or both,

1 whether or not the trees produce an annual
2 crop, intended for replanting after commercial
3 sale; or

4 “(C) a forest landowner who produces peri-
5 odic crops of timber, Christmas trees, or pecan
6 trees for commercial purposes.”.

7 (b) APPLICATION OF AMENDMENT.—The Secretary
8 shall apply the amendment made by subsection (a) begin-
9 ning in disaster counties.

10 (c) COST-SHARING WAIVERS.—

11 (1) TREE ASSISTANCE PROGRAM.—The cost-
12 sharing requirements of section 10203(1) of the
13 Farm Security and Rural Investment Act of 2002 (7
14 U.S.C. 8203(1)) shall not apply to the operation of
15 the tree assistance program in disaster counties in
16 response to the hurricanes of calendar year 2005.

17 (2) COOPERATIVE FORESTRY ASSISTANCE
18 ACT.—The cost-sharing requirements of the Cooper-
19 ative Forestry Assistance Act of 1978 (16 U.S.C.
20 2101 et seq.) shall not apply in disaster counties
21 during the 2-year period beginning on the date of
22 enactment of this Act.

23 (3) REFORESTATION.—In carrying out the tree
24 assistance program under subtitle C of title X of the
25 Farm Security and Rural Investment Act of 2002 (7

1 U.S.C. 8201 et seq.), the Secretary shall provide
 2 such funds as are necessary to compensate forest
 3 owners that—

4 (A) produce periodic crops of timber or
 5 Christmas trees for commercial purposes; and

6 (B) have suffered tree losses in disaster
 7 counties.

8 **TITLE IV—CONSERVATION**

9 **SEC. 401. EMERGENCY CONSERVATION PROGRAM.**

10 (a) SPECIFIC INCLUSION OF NURSERY AND FERN-
 11 ERY PRODUCERS AND INTERIOR FENCES.—Section 401
 12 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201)
 13 is amended—

14 (1) by striking “**SEC. 401.** The Secretary” and
 15 inserting the following:

16 **“SEC. 401. PAYMENTS TO AGRICULTURAL PRODUCERS FOR**
 17 **WIND EROSION CONTROL OR REHABILITA-**
 18 **TION MEASURES.**

19 “(a) IN GENERAL.—The Secretary”; and

20 (2) by adding at the end the following:

21 “(b) INCLUSIONS.—In this title:

22 “(1) AGRICULTURAL PRODUCER.—The term
 23 ‘agricultural producer’ includes a producer of nurs-
 24 ery or fernery crops.

1 “(2) INTERIOR FENCES.—The term ‘fences’ in-
 2 cludes both perimeter pasture and interior corral
 3 fences.”.

4 (b) APPLICATION OF AMENDMENT.—The Secretary
 5 shall apply the amendment made by subsection (a)(2) be-
 6 ginning in disaster counties.

7 (c) COMPENSATION.—The Secretary shall use funds
 8 of the Commodity Credit Corporation to compensate pro-
 9 ducers on a farm operating in a disaster county for costs
 10 associated with repairing structures, barns, storage facili-
 11 ties, poultry houses, beehives, greenhouses, and shade
 12 houses due to hurricane damage in calendar year 2005.

13 **TITLE V—LOW-INCOME MI-**
 14 **GRANT AND SEASONAL FARM-**
 15 **WORKERS**

16 **SEC. 501. EMERGENCY GRANTS FOR LOW-INCOME MIGRANT**
 17 **AND SEASONAL FARMWORKERS.**

18 (a) IN GENERAL.—The Secretary shall use
 19 \$40,000,000 of funds of the Commodity Credit Corpora-
 20 tion, to remain available until December 31, 2007, to pro-
 21 vide emergency grants to assist low-income migrant and
 22 seasonal farmworkers under section 2281 of the Food, Ag-
 23 riculture, Conservation, and Trade Act of 1990 (42 U.S.C.
 24 5177a).

1 (b) USE OF GRANTS.—Grants provided under this
 2 section may be used to provide such emergency services
 3 as the Secretary determines to be necessary, including—

4 (1) the repair of existing farmworker housing
 5 and construction of new farmworker housing units
 6 to replace housing damaged as a result of hurricanes
 7 during 2005; and

8 (2) the reimbursement of public agencies and
 9 private organizations for emergency services pro-
 10 vided to low-income migrant or seasonal farm-
 11 workers after October 31, 2005.

12 **TITLE VI—FISHERIES**

13 **SEC. 601. FISHERIES ASSISTANCE.**

14 (a) FUNDS FOR OYSTER RESTORATION.—

15 (1) IN GENERAL.—Not later than 30 days after
 16 the date of enactment of this Act, out of any funds
 17 in the Treasury not otherwise appropriated, the Sec-
 18 retary of the Treasury shall transfer to the Sec-
 19 retary of Commerce \$10,000,000 to provide assist-
 20 ance for reseeding, rehabilitation, and restoration of
 21 oyster reefs located in Alabama, Florida, Louisiana,
 22 or Mississippi.

23 (2) AVAILABILITY OF FUNDS.—The funds
 24 transferred under paragraph (1) shall remain avail-
 25 able until September 30, 2007.

1 (3) RECEIPT AND ACCEPTANCE.—The Sec-
2 retary of Commerce shall be entitled to receive, shall
3 accept, and shall use as described in this section the
4 funds transferred under paragraph (1) without fur-
5 ther appropriation.

6 (b) FUNDS FOR FISHERIES DISASTER ASSIST-
7 ANCE.—

8 (1) IN GENERAL.—In addition to amounts ap-
9 propriated or otherwise made available, not later
10 than 30 days after the date of enactment of this
11 Act, out of any funds in the Treasury not otherwise
12 appropriated, the Secretary of the Treasury shall
13 transfer to the Secretary of Commerce \$60,000,000
14 to provide fisheries disaster assistance.

15 (2) LIMITATION ON USE OF FUNDS.—Of the
16 funds transferred under paragraph (1)—

17 (A) not more than 5 percent of such funds
18 may be used for administrative expenses; and

19 (B) none of such funds may be used for
20 lobbying activities or representational expenses.

21 (3) RECEIPT AND ACCEPTANCE.—The Sec-
22 retary of Commerce shall be entitled to receive, shall
23 accept, and shall use as described in this section the
24 funds transferred under paragraph (1) without fur-
25 ther appropriation.

1 (c) PROVISION OF ASSISTANCE.—

2 (1) LUMP SUM PAYMENTS TO STATES.—The
3 Secretary of Commerce shall use the funds trans-
4 ferred under this section to provide direct lump sum
5 payments to the States of Louisiana, Mississippi,
6 Alabama, and Florida to provide assistance to per-
7 sons located in a disaster county who have experi-
8 enced significant economic hardship due to the loss
9 of fisheries, oysters, lobsters, stone crabs, or clams,
10 destroyed or damaged processing facilities, or clo-
11 sures due to red tide or other water quality issues.

12 (2) USE OF FUNDS.—Funds transferred to the
13 Secretary of Commerce under this section shall be
14 used to provide assistance—

15 (A) to individuals, with priority given to
16 food, energy needs, housing assistance, trans-
17 portation fuel, and other urgent needs;

18 (B) to small businesses, including fisher-
19 men, fish processors, and related businesses
20 serving the fishing industry;

21 (C) to carry out activities related to do-
22 mestic product marketing and seafood pro-
23 motion; and

24 (D) to carry out seafood testing programs
25 operated by a State.

1 **TITLE VII—TIMBER TAX RELIEF**

2 **SEC. 701. TIMBER TAX RELIEF FOR BUSINESSES AFFECTED**
3 **BY CERTAIN NATURAL DISASTERS.**

4 (a) CASUALTY LOSSES.—

5 (1) IN GENERAL.—Section 1211 of the Internal
6 Revenue Code of 1986 (relating to limitation of cap-
7 ital losses) shall not apply to any qualified timber
8 loss.

9 (2) QUALIFIED TIMBER LOSS.—For purposes of
10 this subsection, the term “qualified timber loss”
11 means a loss with respect to timber which is attrib-
12 utable to—

- 13 (A) Hurricane Dennis,
14 (B) Hurricane Katrina,
15 (C) Hurricane Rita, or
16 (D) Hurricane Wilma.

17 (b) INCREASED EXPENSING FOR REFORESTATION
18 EXPENDITURES.—

19 (1) IN GENERAL.—In applying section 194(b)
20 of the Internal Revenue Code of 1986 to any speci-
21 fied qualified timber property for the first taxable
22 year beginning after the date of the enactment of
23 this section, subparagraph (B) of section 194(b)(1)
24 shall be applied—

1 (A) by substituting “\$20,000” for
 2 “\$10,000”, and

3 (B) by substituting “\$10,000” for
 4 “\$5,000”.

5 (2) SPECIFIED QUALIFIED TIMBER PROP-
 6 ERTY.—The term “specified qualified timber prop-
 7 erty” means qualified timber property (within the
 8 meaning of section 194(c)(1) of the Internal Rev-
 9 enue Code of 1986) which is located in an area with
 10 respect to which a natural disaster has been declared
 11 by the President under section 401 of the Robert T.
 12 Stafford Disaster Relief and Emergency Assistance
 13 Act as a result of—

- 14 (A) Hurricane Dennis,
- 15 (B) Hurricane Katrina,
- 16 (C) Hurricane Rita, or
- 17 (D) Hurricane Wilma.

18 **TITLE VIII—MISCELLANEOUS**

19 **SEC. 801. INFRASTRUCTURE LOSSES.**

20 (a) INFRASTRUCTURE LOSSES.—The Secretary shall
 21 compensate producers on a farm in a disaster county for
 22 costs incurred to repair or replace barns, greenhouses,
 23 shade houses, poultry houses, beehives, and other struc-
 24 tures, equipment, and fencing that—

1 (1) was used to produce or store any agricul-
2 tural commodity; and

3 (2) was damaged or destroyed by the hurri-
4 canes of calendar year 2005.

5 (b) TIMING OF ASSISTANCE.—The Secretary may
6 provide assistance authorized under this section in the
7 form of—

8 (1) reimbursement for eligible repair or replace-
9 ment costs previously incurred by producers; or

10 (2) cash or in-kind assistance in advance of the
11 producer undertaking the needed repair or replace-
12 ment work.

13 (c) PAYMENT LIMITATIONS.—Assistance provided
14 under this section to a producer for a repair or replace-
15 ment project, together with amounts received for the same
16 project from insurance proceeds or other sources, may not
17 exceed 95 percent of the costs incurred to repair or replace
18 the damaged or destroyed structures, equipment, or fenc-
19 ing, as estimated by the Secretary.

20 (d) LOAN ELIGIBILITY.—After approval of the coun-
21 ty committee established under section 8 of the Soil Con-
22 servation and Domestic Allotment Act (16 U.S.C. 590h)
23 for the county or other area in which the farming oper-
24 ation is located, the producers on a farm in a disaster
25 county shall be eligible to receive an emergency loan under

1 subtitle C of the Consolidated Farm and Rural Develop-
2 ment Act (7 U.S.C. 1961 et seq.) regardless of whether
3 the producers satisfy the requirements of the first proviso
4 of section 321(a) of that Act (7 U.S.C. 1961(a)).

5 **SEC. 802. COMMODITY CREDIT CORPORATION.**

6 Except as otherwise provided in this Act—

7 (1) the Secretary shall use the funds, facilities,
8 and authorities of the Commodity Credit Corpora-
9 tion to carry out this Act; and

10 (2) funds made available under this Act shall
11 remain available until expended.

12 **SEC. 803. EMERGENCY DESIGNATION.**

13 The amounts provided under this Act or under
14 amendments made by this Act to respond to the hurri-
15 canes of calendar year 2005 are designated as an emer-
16 gency requirement pursuant to section 402 of H. Con.
17 Res. 95 (109th Congress).

18 **SEC. 804. REGULATIONS.**

19 (a) IN GENERAL.—The Secretary may promulgate
20 such regulations as are necessary to implement this Act
21 and the amendments made by this Act.

22 (b) PROCEDURE.—The promulgation of the regula-
23 tions and administration of this Act and the amendments
24 made by this Act shall be made without regard to—

1 (1) the notice and comment provisions of sec-
2 tion 553 of title 5, United States Code;

3 (2) the Statement of Policy of the Secretary of
4 Agriculture effective July 24, 1971 (36 Fed. Reg.
5 13804), relating to notices of proposed rulemaking
6 and public participation in rulemaking; and

7 (3) chapter 35 of title 44, United States Code
8 (commonly known as the “Paperwork Reduction
9 Act”).

10 (c) CONGRESSIONAL REVIEW OF AGENCY RULE-
11 MAKING.—In carrying out this section, the Secretary shall
12 use the authority provided under section 808 of title 5,
13 United States Code.

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