

Public Law 110–246
110th Congress

An Act

To provide for the continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2012, and for other purposes.

June 18, 2008
[H.R. 6124]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Food,
Conservation,
and Energy Act
of 2008.
7 USC 8701 note.

- Sec. 1. Short title; table of contents.
- Sec. 2. Definition of Secretary.
- Sec. 3. Explanatory Statement.
- Sec. 4. Repeal of duplicative enactment.

TITLE I—COMMODITY PROGRAMS

- Sec. 1001. Definitions.

Subtitle A—Direct Payments and Counter-Cyclical Payments

- Sec. 1101. Base acres.
- Sec. 1102. Payment yields.
- Sec. 1103. Availability of direct payments.
- Sec. 1104. Availability of counter-cyclical payments.
- Sec. 1105. Average crop revenue election program.
- Sec. 1106. Producer agreement required as condition of provision of payments.
- Sec. 1107. Planting flexibility.
- Sec. 1108. Special rule for long grain and medium grain rice.
- Sec. 1109. Period of effectiveness.

Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

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

Subtitle C—Peanuts

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

SEC. 15342. ALLOWANCE OF SECTION 1031 TREATMENT FOR EXCHANGES INVOLVING CERTAIN MUTUAL DITCH, RESERVOIR, OR IRRIGATION COMPANY STOCK.

26 USC 1031.

(a) **IN GENERAL.**—Section 1031 (relating to exchange of property held for productive use or investment) is amended by adding at the end the following new subsection:

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

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

“(2) the shares in such company have been recognized by the highest court of the State in which such company was organized or by applicable State statute as constituting or representing real property or an interest in real property.”.

26 USC 1031
note.

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

SEC. 15343. AGRICULTURAL CHEMICALS SECURITY CREDIT.

(a) **IN GENERAL.**—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

“SEC. 450. AGRICULTURAL CHEMICALS SECURITY CREDIT.

“(a) **IN GENERAL.**—For purposes of section 38, in the case of an eligible agricultural business, the agricultural chemicals security credit determined under this section for the taxable year is 30 percent of the qualified security expenditures for the taxable year.

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

“(1) \$100,000, reduced by

“(2) the aggregate amount of credits determined under subsection (a) with respect to such facility for the 5 prior taxable years.

“(c) **ANNUAL LIMITATION.**—The amount of the credit determined under subsection (a) with respect to any taxpayer for any taxable year shall not exceed \$2,000,000.

“(d) **QUALIFIED CHEMICAL SECURITY EXPENDITURE.**—For purposes of this section, the term ‘qualified chemical security expenditure’ means, with respect to any eligible agricultural business for any taxable year, any amount paid or incurred by such business during such taxable year for—

“(1) employee security training and background checks,

“(2) limitation and prevention of access to controls of specified agricultural chemicals stored at the facility,

“(3) tagging, locking tank valves, and chemical additives to prevent the theft of specified agricultural chemicals or to render such chemicals unfit for illegal use,

“(4) protection of the perimeter of specified agricultural chemicals,

- “(5) installation of security lighting, cameras, recording equipment, and intrusion detection sensors,
- “(6) implementation of measures to increase computer or computer network security,
- “(7) conducting a security vulnerability assessment,
- “(8) implementing a site security plan, and
- “(9) such other measures for the protection of specified agricultural chemicals as the Secretary may identify in regulation.

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

“(e) ELIGIBLE AGRICULTURAL BUSINESS.—For purposes of this section, the term ‘eligible agricultural business’ means any person in the trade or business of—

“(1) selling agricultural products, including specified agricultural chemicals, at retail predominantly to farmers and ranchers, or

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

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

“(1) any fertilizer commonly used in agricultural operations which is listed under—

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

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

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

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

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

Applicability.

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

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

“(2) provide for the treatment of related properties as one facility for purposes of subsection (b).

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

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking “plus” at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting “, plus”, and by adding at the end the following new paragraph:

26 USC 38.

“(32) in the case of an eligible agricultural business (as defined in section 45O(e)), the agricultural chemicals security credit determined under section 45O(a).”

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

26 USC 280C.

“(f) CREDIT FOR SECURITY OF AGRICULTURAL CHEMICALS.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction taken into account in determining the credit under section 45O for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45O(a).”

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Sec. 45O. Agricultural chemicals security credit.”

26 USC 38 note.

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

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

26 USC 168.

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

“(i) any race horse—

“(I) which is placed in service before January 1, 2014, and

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

26 USC 168 note.

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

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

Applicability.

(a) IN GENERAL.—Subject to the modifications described in this section, the following provisions of or relating to the Internal Revenue Code of 1986 shall apply to the Kansas disaster area in addition to the areas to which such provisions otherwise apply:

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

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

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

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

(5) Section 1400N(n) of such Code (relating to treatment of representations regarding income eligibility for purposes of qualified rental project requirements).

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

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

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

(9) Section 1400S(b) of such Code (relating to suspension of certain limitations on personal casualty losses).

(10) Section 405 of the Katrina Emergency Tax Relief Act of 2005 (relating to extension of replacement period for non-recognition of gain).