

112TH CONGRESS  
2D SESSION

# H. R. \_\_\_\_\_

To provide a one-year extension of the Food, Conservation, and Energy Act of 2008 and amendments made by that Act, with certain modifications and exceptions, to provide supplemental agricultural disaster assistance, to establish dairy producer margin protection and dairy market stabilization programs, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

Mr. LUCAS introduced the following bill; which was referred to the Committee on \_\_\_\_\_

## A BILL

To provide a one-year extension of the Food, Conservation, and Energy Act of 2008 and amendments made by that Act, with certain modifications and exceptions, to provide supplemental agricultural disaster assistance, to establish dairy producer margin protection and dairy market stabilization programs, and for other purposes.

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  
5 “\_\_\_\_\_ Act of 2013”.

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

Sec. 1. Short title; table of contents.

TITLE I—AGRICULTURAL PROGRAMS EXTENSION

Sec. 101. One-year extension of agricultural programs.

TITLE II—AGRICULTURAL DISASTER ASSISTANCE

Sec. 201. Supplemental agricultural disaster assistance.

Sec. 202. Noninsured crop assistance program.

TITLE III—DAIRY

Subtitle A—Dairy Producer Margin Protection and Dairy Market  
Stabilization Programs

Sec. 301. Definitions.

Sec. 302. Calculation of average feed cost and actual dairy producer margins.

PART 1—DAIRY PRODUCER MARGIN PROTECTION PROGRAM

Sec. 311. Establishment of dairy producer margin protection program.

Sec. 312. Participation of dairy producers in margin protection program.

Sec. 313. Production history of participating dairy producers.

Sec. 314. Basic margin protection.

Sec. 315. Supplemental margin protection.

Sec. 316. Effect of failure to pay administrative fees or premiums.

PART 2—DAIRY MARKET STABILIZATION PROGRAM

Sec. 331. Establishment of dairy market stabilization program.

Sec. 332. Threshold for implementation and reduction in dairy producer pay-  
ments.

Sec. 333. Producer milk marketing information.

Sec. 334. Calculation and collection of reduced dairy producer payments.

Sec. 335. Remitting monies to the Secretary and use of monies.

Sec. 336. Suspension of reduced payment requirement.

Sec. 337. Enforcement.

Sec. 338. Audit requirements.

PART 3—COMMODITY CREDIT CORPORATION

Sec. 351. Use of Commodity Credit Corporation.

PART 4—INITIATION AND DURATION

Sec. 361. Rulemaking.

Sec. 362. Duration.

Subtitle B—Repeal or Reauthorization of Other Dairy-related Provisions

Sec. 381. Repeal of dairy product price support and milk income loss contract  
programs.

Sec. 382. Repeal of dairy export incentive program.

Sec. 383. Extension of dairy forward pricing program.

- Sec. 384. Extension of dairy indemnity program.  
Sec. 385. Extension of dairy promotion and research program.  
Sec. 386. Repeal of Federal Milk Marketing Order Review Commission.

Subtitle C—Effective Date

- Sec. 391. Effective date.

1           **TITLE I—AGRICULTURAL**  
2           **PROGRAMS EXTENSION**

3   **SEC. 101. ONE-YEAR EXTENSION OF AGRICULTURAL PRO-**  
4           **GRAMS.**

5           (a) EXTENSION.—Except as otherwise provided in  
6 this section and amendments made by this section and  
7 subtitle B of title III, and notwithstanding any other pro-  
8 vision of law, the authorities provided by each provision  
9 of the Food, Conservation, and Energy Act of 2008 (Pub-  
10 lic Law 110–246; 122 Stat. 1651) and each amendment  
11 made by that Act (and for mandatory programs at such  
12 funding levels), as in effect on September 30, 2012, shall  
13 continue, and the Secretary of Agriculture shall carry out  
14 the authorities, until the later of—

15                   (1) September 30, 2013; and

16                   (2) the date specified in the provision of such  
17 Act or amendment made by such Act.

18           (b) COMMODITY PROGRAMS.—

19                   (1) IN GENERAL.—The terms and conditions  
20 applicable to a covered commodity or loan com-  
21 modity (as those terms are defined in section 1001  
22 of the Food, Conservation, and Energy Act of 2008

1 (7 U.S.C. 8702)) or to peanuts, sugarcane, or sugar  
2 beets for the 2012 crop year pursuant to title I of  
3 such Act and each amendment made by that title  
4 shall be applicable to the 2013 crop year for that  
5 covered commodity, loan commodity, peanuts, sugar-  
6 cane, or sugar beets.

7 (2) REDUCTION IN PERCENTAGE OF BASE  
8 ACRES USED TO DETERMINE PAYMENT ACRES FOR  
9 DIRECT PAYMENTS.—For purposes of applying sec-  
10 tions 1103 and 1303 of the Food, Conservation, and  
11 Energy Act of 2008 (7 U.S.C. 8713, 8753) for the  
12 2013 crop year of a covered commodity (as that  
13 term is defined in section 1001 of such Act (7  
14 U.S.C. 8702)) or peanuts, the term “payment acres”  
15 means 82.5 percent of the base acres of a covered  
16 commodity and of peanuts on a farm on which direct  
17 payments are made.

18 (3) COTTON.—The authority provided by the  
19 following provisions of title I of the Food, Conserva-  
20 tion, and Energy Act of 2008 shall continue through  
21 July 31, 2014:

22 (A) Section 1204(e)(2)(B) (7 U.S.C.  
23 8734(e)(2)(B)) relating to adjustment authority  
24 regarding prevailing world market price.

1 (B) Section 1207(a) (7 U.S.C. 8737(a))  
2 relating to import quota program.

3 (C) Section 1208 (7 U.S.C. 8738) relating  
4 to special competitive provisions for extra long  
5 staple cotton.

6 (4) SUSPENSION OF PERMANENT PRICE SUP-  
7 PORT AUTHORITIES.—The provisions of law specified  
8 in subsections (a) through (c) of section 1602 of the  
9 Food, Conservation, and Energy Act of 2008 (7  
10 U.S.C. 8782) shall be suspended—

11 (A) for the 2013 crop year of a covered  
12 commodity (as that term is defined in section  
13 1001 of such Act (7 U.S.C. 8702)), peanuts,  
14 and sugar, as appropriate; and

15 (B) in the case of milk, through December  
16 31, 2013.

17 (c) EMPLOYMENT AND TRAINING PROGRAMS UNDER  
18 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—  
19 For purposes of fiscal year 2013, the reference to  
20 \$90,000,000 in section 16(h)(1)(A) of the Food and Nu-  
21 trition Act of 2008 (7 U.S.C. 2025(h)(1)(A)) shall be  
22 deemed to be a reference to \$79,000,000.

23 (d) CONSERVATION PROGRAMS.—

24 (1) VOLUNTARY PUBLIC ACCESS PROGRAM.—  
25 Section 1240R(f) of the Food Security Act of 1985

1 (16 U.S.C. 3839bb–5(f)) is amended by inserting be-  
2 fore the period at the end the following: “and  
3 \$10,000,000 for fiscal year 2013”.

4 (2) SMALL WATERSHED REHABILITATION PRO-  
5 GRAM.—Section 14(h)(1) of the Watershed Protec-  
6 tion and Flood Prevention Act (16 U.S.C.  
7 1012(h)(1)) is amended—

8 (A) by striking “and” at the end of sub-  
9 paragraph (E);

10 (B) by striking the period at the end of  
11 subparagraph (F) and inserting a semicolon;

12 (C) in subparagraph (G), by striking “, to  
13 be available until expended.” and inserting “;  
14 and”; and

15 (D) by adding at the end the following:

16 “(H) \$20,000,000 for fiscal year 2013.”.

17 (3) DESERT TERMINAL LAKES PROGRAM.—Sec-  
18 tion 2507(a) of the Farm Security and Rural Invest-  
19 ment Act of 2002 (43 U.S.C. 2211 note; Public Law  
20 107–171) is amended by striking “on the date of en-  
21 actment of the Food, Conservation, and Energy Act  
22 of 2008, the Secretary of Agriculture shall transfer  
23 \$175,000,000” and inserting “for fiscal year 2013,  
24 the Secretary of Agriculture shall transfer  
25 \$35,000,000”.

1 (e) VALUE-ADDED AGRICULTURAL PRODUCT MAR-  
2 KET DEVELOPMENT GRANTS.—Section 231(b)(7)(A) of  
3 the Agricultural Risk Protection Act of 2000 (7 U.S.C.  
4 1632a(b)(7)(A)) is amended—

5 (1) by striking “On October” and inserting the  
6 following:

7 “(i) INITIAL FUNDING.—On October”;

8 and

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

10 “(ii) FISCAL YEAR 2013.—For Fiscal  
11 Year 2013, of the funds of the Commodity  
12 Credit Corporation, the Secretary shall  
13 make available to carry out this subsection  
14 \$3,000,000, to remain available until ex-  
15 pended.”.

16 (f) ENERGY PROGRAMS.—Title IX of the Farm Secu-  
17 rity and Rural Investment Act of 2002 (7 U.S.C. 8101  
18 et seq.) is amended—

19 (1) in section 9003(h)(1)—

20 (A) by striking “and” at the end of sub-  
21 paragraph (A);

22 (B) by striking the period at the end of  
23 subparagraph (B) and inserting “; and”; and

24 (C) by adding at the end the following:

25 “(C) \$80,000,000 for fiscal year 2013.”;

1 (2) in section 9005(g)(1)—

2 (A) by striking “and” at the end of sub-  
3 paragraph (C);

4 (B) by striking the period at the end of  
5 subparagraph (D) and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(E) \$55,000,000 for fiscal year 2013.”;

8 (3) in section 9007(g)(1)—

9 (A) by striking “and” at the end of sub-  
10 paragraph (C);

11 (B) by striking the period at the end of  
12 subparagraph (D) and inserting “; and”; and

13 (C) by adding at the end the following:

14 “(E) \$51,000,000 for fiscal year 2013.”;

15 (4) in section 9008(h)(1)—

16 (A) by striking “and” at the end of sub-  
17 paragraph (C);

18 (B) by striking the period at the end of  
19 subparagraph (D) and inserting “; and”; and

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

21 “(E) \$33,600,000 for fiscal year 2013.”;

22 (5) in section 9010(b)(1)(A), by striking “2012  
23 crops” and inserting “2013 crops”; and

24 (6) in section 9011(f), by inserting before the  
25 period at the end the following: “and \$38,600,000



1 for fiscal year 2013, to remain available until ex-  
2 pended. In the case of a multiyear contract, the Sec-  
3 retary shall ensure that sufficient funds are obli-  
4 gated from the amounts made available by this sub-  
5 section to fully cover all payments required by the  
6 contract for all years of the contract”.

7 (g) ORGANIC AGRICULTURE.—

8 (1) ORGANIC PRODUCTION AND MARKET DATA  
9 INITIATIVES.—Section 7407(d)(1) of the Farm Se-  
10 curity and Rural Investment Act of 2002 (7 U.S.C.  
11 5925c(d)(1)) is amended by striking “\$5,000,000”  
12 and inserting “\$1,000,000 for fiscal year 2013”.

13 (2) NATIONAL ORGANIC CERTIFICATION COST-  
14 SHARE PROGRAM.—Section 10606(a) of the Farm  
15 Security and Rural Investment Act of 2002 (7  
16 U.S.C. 6523(a)) is amended by inserting “and  
17 \$5,000,000 for fiscal year 2013” after “fiscal year  
18 2008”.

19 (h) EXCEPTIONS.—

20 (1) IN GENERAL.—Subsection (a) does not  
21 apply with respect to the provisions of law amended  
22 by subsections (d) through (g).

23 (2) CONSERVATION.—Subsection (a) does not  
24 apply with respect to the programs specified in para-  
25 graphs (3)(B), (4), (6), and (7) of section 1241(a)

1 of the Food Security Act of 1985 (16 U.S.C.  
2 3841(a)), relating to the conservation stewardship  
3 program, farmland protection program, environ-  
4 mental quality incentives program, and wildlife habi-  
5 tat incentives program, for which program authority  
6 was extended through fiscal year 2014 by section  
7 716 of Public Law 112–55 (125 Stat. 582).

8 (3) TRADE.—Subsection (a) does not apply  
9 with respect to the following provisions of law:

10 (A) Section 3206 of the Food, Conserva-  
11 tion, and Energy Act of 2008 (7 U.S.C. 1726e)  
12 relating to the use of Commodity Credit Cor-  
13 poration funds to support local and regional  
14 food aid procurement projects.

15 (B) Section 3107(l)(1) of the Farm Secu-  
16 rity and Rural Investment Act of 2002 (7  
17 U.S.C. 1736o–1(l)(1)) relating to the use of  
18 Commodity Credit Corporation funds to carry  
19 out the McGovern-Dole International Food for  
20 Education and Child Nutrition Program.

21 (4) SURVEY OF FOODS PURCHASED BY SCHOOL  
22 FOOD AUTHORITIES.—Subsection (a) does not apply  
23 with respect to section 4307 of the Food, Conserva-  
24 tion, and Energy Act of 2008 (Public Law 110–246;  
25 122 Stat. 1893) relating to the use of Commodity

1 Credit Corporation funds for a survey and report re-  
2 garding foods purchased by school food authorities.

3 (5) RURAL DEVELOPMENT.—Subsection (a)  
4 does not apply with respect to the following provi-  
5 sions of law:

6 (A) Section 6029 of the Food, Conserva-  
7 tion, and Energy Act of 2008 (Public Law  
8 110–246; 122 Stat. 1955) relating to funding  
9 of pending rural development loan and grant  
10 applications.

11 (B) Section 375(e)(6)(B) of the Consoli-  
12 dated Farm and Rural Development Act (7  
13 U.S.C. 2008j(e)(6)(B)) relating to the use of  
14 Commodity Credit Corporation funds for the  
15 National Sheep Industry Improvement Center.

16 (6) REPOWERING ASSISTANCE PROGRAM.—Sub-  
17 section (a) does not apply with respect to section  
18 9004(d)(1) of the Farm Security and Rural Invest-  
19 ment Act of 2002 (7 U.S.C. 8104(d)(1)) relating to  
20 the use of Commodity Credit Corporation funds to  
21 carry out the Repowering Assistance Program.  
22 Nothing in this paragraph shall be construed to pre-  
23 vent the Secretary of Agriculture from using funds  
24 previously made available under such section, and

1 not obligated as of the date of the enactment of this  
2 Act, in fiscal year 2013.

3 (7) MARKET LOSS ASSISTANCE FOR ASPARAGUS  
4 PRODUCERS.—Subsection (a) does not apply with re-  
5 spect to section 10404(d) of the Food, Conservation,  
6 and Energy Act of 2008 (Public Law 110–246; 122  
7 Stat. 2112).

8 (8) SUPPLEMENTAL AGRICULTURAL DISASTER  
9 ASSISTANCE.—Subsection (a) does not apply with re-  
10 spect to section 531 of the Federal Crop Insurance  
11 Act (7 U.S.C. 1531) and title IX of the Trade Act  
12 of 1974 (19 U.S.C. 2497 et seq.) relating to the pro-  
13 vision of supplemental agricultural disaster assist-  
14 ance.

15 (9) PIGFORD CLAIMS.—Subsection (a) does not  
16 apply with respect to section 14012 of the Food,  
17 Conservation, and Energy Act of 2008 (Public Law  
18 110–246; 122 Stat. 2209) relating to determination  
19 on the merits of Pigford claims.

20 (10) HEARTLAND, HABITAT, HARVEST, AND  
21 HORTICULTURE ACT OF 2008.—Subsection (a) does  
22 not apply with respect to title XV of the Food, Con-  
23 servation, and Energy Act of 2008 (Public Law  
24 110–246; 122 Stat. 2246), and amendments made  
25 by that title, relating to the provision of supple-

1 mental agricultural disaster assistance under title IX  
2 of the Trade Act of 1974 (19 U.S.C. 2497 et seq.),  
3 certain revenue and tax provisions, and certain trade  
4 benefits and other matters.

5 (i) EFFECTIVE DATE.—This section and the amend-  
6 ments made by this section shall take effect as of Sep-  
7 tember 30, 2012.

8 **TITLE II—AGRICULTURAL**  
9 **DISASTER ASSISTANCE**

10 **SEC. 201. SUPPLEMENTAL AGRICULTURAL DISASTER AS-**  
11 **SISTANCE.**

12 (a) DEFINITIONS.—In this section:

13 (1) ELIGIBLE PRODUCER ON A FARM.—

14 (A) IN GENERAL.—The term “eligible pro-  
15 ducer on a farm” means an individual or entity  
16 described in subparagraph (B) that, as deter-  
17 mined by the Secretary, assumes the production  
18 and market risks associated with the agricul-  
19 tural production of crops or livestock.

20 (B) DESCRIPTION.—An individual or enti-  
21 ty referred to in subparagraph (A) is—

22 (i) a citizen of the United States;

23 (ii) a resident alien;

24 (iii) a partnership of citizens of the

25 United States; or

1 (iv) a corporation, limited liability cor-  
2 poration, or other farm organizational  
3 structure organized under State law.

4 (2) FARM-RAISED FISH.—The term “farm-  
5 raised fish” means any aquatic species that is propa-  
6 gated and reared in a controlled environment.

7 (3) LIVESTOCK.—The term “livestock” in-  
8 cludes—

9 (A) cattle (including dairy cattle);

10 (B) bison;

11 (C) poultry;

12 (D) sheep;

13 (E) swine;

14 (F) horses; and

15 (G) other livestock, as determined by the  
16 Secretary.

17 (4) SECRETARY.—The term “Secretary” means  
18 the Secretary of Agriculture.

19 (b) LIVESTOCK INDEMNITY PAYMENTS.—

20 (1) PAYMENTS.—The Secretary shall use such  
21 sums as are necessary of the funds of the Com-  
22 modity Credit Corporation to make livestock indem-  
23 nity payments to eligible producers on farms that  
24 have incurred livestock death losses in excess of the

1 normal mortality, as determined by the Secretary,  
2 due to—

3 (A) attacks by animals reintroduced into  
4 the wild by the Federal Government or pro-  
5 tected by Federal law, including wolves and  
6 avian predators; or

7 (B) adverse weather, as determined by the  
8 Secretary, during the calendar year, including  
9 losses due to hurricanes, floods, blizzards, dis-  
10 ease, wildfires, extreme heat, and extreme cold.

11 (2) PAYMENT RATES.—Indemnity payments to  
12 an eligible producer on a farm under paragraph (1)  
13 shall be made at a rate of 75 percent of the market  
14 value of the applicable livestock on the day before  
15 the date of death of the livestock, as determined by  
16 the Secretary.

17 (3) SPECIAL RULE FOR PAYMENTS MADE DUE  
18 TO DISEASE.—The Secretary shall ensure that pay-  
19 ments made to an eligible producer under paragraph  
20 (1) are not made for the same livestock losses for  
21 which compensation is provided pursuant to section  
22 10407(d) of the Animal Health Protection Act (7  
23 U.S.C. 8306(d)).

24 (c) LIVESTOCK FORAGE DISASTER PROGRAM.—

25 (1) DEFINITIONS.—In this subsection:

1 (A) COVERED LIVESTOCK.—

2 (i) IN GENERAL.—Except as provided  
3 in clause (ii), the term “covered livestock”  
4 means livestock of an eligible livestock pro-  
5 ducer that, during the 60 days prior to the  
6 beginning date of a qualifying drought or  
7 fire condition, as determined by the Sec-  
8 retary, the eligible livestock producer—

9 (I) owned;

10 (II) leased;

11 (III) purchased;

12 (IV) entered into a contract to  
13 purchase;

14 (V) is a contract grower; or

15 (VI) sold or otherwise disposed of  
16 due to qualifying drought conditions  
17 during—

18 (aa) the current production  
19 year; or

20 (bb) subject to paragraph  
21 (3)(B)(ii), 1 or both of the 2 pro-  
22 duction years immediately pre-  
23 ceding the current production  
24 year.



1                   (ii) EXCLUSION.—The term “covered  
2                   livestock” does not include livestock that  
3                   were or would have been in a feedlot, on  
4                   the beginning date of the qualifying  
5                   drought or fire condition, as a part of the  
6                   normal business operation of the eligible  
7                   livestock producer, as determined by the  
8                   Secretary.

9                   (B) DROUGHT MONITOR.—The term  
10                  “drought monitor” means a system for  
11                  classifying drought severity according to a  
12                  range of abnormally dry to exceptional drought,  
13                  as defined by the Secretary.

14                  (C) ELIGIBLE LIVESTOCK PRODUCER.—

15                         (i) IN GENERAL.—The term “eligible  
16                         livestock producer” means an eligible pro-  
17                         ducer on a farm that—

18                                 (I) is an owner, cash or share  
19                                 lessee, or contract grower of covered  
20                                 livestock that provides the pastureland  
21                                 or grazing land, including cash-leased  
22                                 pastureland or grazing land, for the  
23                                 livestock;

24                                 (II) provides the pastureland or  
25                                 grazing land for covered livestock, in-

1 including cash-leased pastureland or  
2 grazing land that is physically located  
3 in a county affected by drought;

4 (III) certifies grazing loss; and

5 (IV) meets all other eligibility re-  
6 quirements established under this sub-  
7 section.

8 (ii) EXCLUSION.—The term “eligible  
9 livestock producer” does not include an  
10 owner, cash or share lessee, or contract  
11 grower of livestock that rents or leases  
12 pastureland or grazing land owned by an-  
13 other person on a rate-of-gain basis.

14 (D) NORMAL CARRYING CAPACITY.—The  
15 term “normal carrying capacity”, with respect  
16 to each type of grazing land or pastureland in  
17 a county, means the normal carrying capacity,  
18 as determined under paragraph (3)(D)(i), that  
19 would be expected from the grazing land or  
20 pastureland for livestock during the normal  
21 grazing period, in the absence of a drought or  
22 fire that diminishes the production of the graz-  
23 ing land or pastureland.

24 (E) NORMAL GRAZING PERIOD.—The term  
25 “normal grazing period”, with respect to a

1 county, means the normal grazing period during  
2 the calendar year for the county, as determined  
3 under paragraph (3)(D)(i).

4 (2) PROGRAM.—The Secretary shall use such  
5 sums as are necessary of the funds of the Com-  
6 modity Credit Corporation to provide compensation  
7 for losses to eligible livestock producers due to graz-  
8 ing losses for covered livestock due to—

9 (A) a drought condition, as described in  
10 paragraph (3); or

11 (B) fire, as described in paragraph (4).

12 (3) ASSISTANCE FOR LOSSES DUE TO DROUGHT  
13 CONDITIONS.—

14 (A) ELIGIBLE LOSSES.—

15 (i) IN GENERAL.—An eligible livestock  
16 producer may receive assistance under this  
17 subsection only for grazing losses for cov-  
18 ered livestock that occur on land that—

19 (I) is native or improved pasture-  
20 land with permanent vegetative cover;  
21 or

22 (II) is planted to a crop planted  
23 specifically for the purpose of pro-  
24 viding grazing for covered livestock.

1                   (ii) EXCLUSIONS.—An eligible live-  
2                   stock producer may not receive assistance  
3                   under this subsection for grazing losses  
4                   that occur on land used for haying or graz-  
5                   ing under the conservation reserve pro-  
6                   gram established under subchapter B of  
7                   chapter 1 of subtitle D of title XII of the  
8                   Food Security Act of 1985 (16 U.S.C.  
9                   3831 et seq.).

10                  (B) MONTHLY PAYMENT RATE.—

11                   (i) IN GENERAL.—Except as provided  
12                   in clause (ii), the payment rate for assist-  
13                   ance under this paragraph for 1 month  
14                   shall, in the case of drought, be equal to  
15                   60 percent of the lesser of—

16                               (I) the monthly feed cost for all  
17                               covered livestock owned or leased by  
18                               the eligible livestock producer, as de-  
19                               termined under subparagraph (C); or

20                               (II) the monthly feed cost cal-  
21                               culated by using the normal carrying  
22                               capacity of the eligible grazing land of  
23                               the eligible livestock producer.

24                   (ii) PARTIAL COMPENSATION.—In the  
25                   case of an eligible livestock producer that

1 sold or otherwise disposed of covered live-  
2 stock due to drought conditions in 1 or  
3 both of the 2 production years immediately  
4 preceding the current production year, as  
5 determined by the Secretary, the payment  
6 rate shall be 80 percent of the payment  
7 rate otherwise calculated in accordance  
8 with clause (i).

9 (C) MONTHLY FEED COST.—

10 (i) IN GENERAL.—The monthly feed  
11 cost shall equal the product obtained by  
12 multiplying—

13 (I) 30 days;

14 (II) a payment quantity that is  
15 equal to the feed grain equivalent, as  
16 determined under clause (ii); and

17 (III) a payment rate that is equal  
18 to the corn price per pound, as deter-  
19 mined under clause (iii).

20 (ii) FEED GRAIN EQUIVALENT.—For  
21 purposes of clause (i)(II), the feed grain  
22 equivalent shall equal—

23 (I) in the case of an adult beef  
24 cow, 15.7 pounds of corn per day; or

1 (II) in the case of any other type  
2 of weight of livestock, an amount de-  
3 termined by the Secretary that rep-  
4 represents the average number of pounds  
5 of corn per day necessary to feed the  
6 livestock.

7 (iii) CORN PRICE PER POUND.—For  
8 purposes of clause (i)(III), the corn price  
9 per pound shall equal the quotient ob-  
10 tained by dividing—

11 (I) the higher of—

12 (aa) the national average  
13 corn price per bushel for the 12-  
14 month period immediately pre-  
15 ceding March 1 of the year for  
16 which the disaster assistance is  
17 calculated; or

18 (bb) the national average  
19 corn price per bushel for the 24-  
20 month period immediately pre-  
21 ceding that March 1; by

22 (II) 56.

23 (D) NORMAL GRAZING PERIOD AND  
24 DROUGHT MONITOR INTENSITY.—

1 (i) FSA COUNTY COMMITTEE DETER-  
2 MINATIONS.—

3 (I) IN GENERAL.—The Secretary  
4 shall determine the normal carrying  
5 capacity and normal grazing period  
6 for each type of grazing land or  
7 pastureland in the county served by  
8 the applicable committee.

9 (II) CHANGES.—No change to  
10 the normal carrying capacity or nor-  
11 mal grazing period established for a  
12 county under subclause (I) shall be  
13 made unless the change is requested  
14 by the appropriate State and county  
15 Farm Service Agency committees.

16 (ii) DROUGHT INTENSITY.—

17 (I) D2.—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 a  
22 D2 (severe drought) intensity in any  
23 area of the county for at least 8 con-  
24 secutive weeks during the normal  
25 grazing period for the county, as de-

1                   terminated by the Secretary, shall be el-  
2                   igible to receive assistance under this  
3                   paragraph in an amount equal to 1  
4                   monthly payment using the monthly  
5                   payment rate determined under sub-  
6                   paragraph (B).

7                   (II) D3.—An eligible livestock  
8                   producer that owns or leases grazing  
9                   land or pastureland that is physically  
10                  located in a county that is rated by  
11                  the U.S. Drought Monitor as having  
12                  at least a D3 (extreme drought) in-  
13                  tensity in any area of the county at  
14                  any time during the normal grazing  
15                  period for the county, as determined  
16                  by the Secretary, shall be eligible to  
17                  receive assistance under this para-  
18                  graph—

19                         (aa) in an amount equal to  
20                         2 monthly payments using the  
21                         monthly payment rate deter-  
22                         mined under subparagraph (B);  
23                         or

24                         (bb) if the county is rated as  
25                         having a D3 (extreme drought)



1 intensity in any area of the coun-  
2 ty for at least 4 weeks during the  
3 normal grazing period for the  
4 county, or is rated as having a  
5 D4 (exceptional drought) inten-  
6 sity in any area of the county at  
7 any time during the normal graz-  
8 ing period, in an amount equal to  
9 3 monthly payments using the  
10 monthly payment rate deter-  
11 mined under subparagraph (B).

12 (4) ASSISTANCE FOR LOSSES DUE TO FIRE ON  
13 PUBLIC MANAGED LAND.—

14 (A) IN GENERAL.—An eligible livestock  
15 producer may receive assistance under this  
16 paragraph only if—

17 (i) the grazing losses occur on range-  
18 land that is managed by a Federal agency;  
19 and

20 (ii) the eligible livestock producer is  
21 prohibited by the Federal agency from  
22 grazing the normal permitted livestock on  
23 the managed rangeland due to a fire.

24 (B) PAYMENT RATE.—The payment rate  
25 for assistance under this paragraph shall be

1 equal to 50 percent of the monthly feed cost for  
2 the total number of livestock covered by the  
3 Federal lease of the eligible livestock producer,  
4 as determined under paragraph (3)(C).

5 (C) PAYMENT DURATION.—

6 (i) IN GENERAL.—Subject to clause  
7 (ii), an eligible livestock producer shall be  
8 eligible to receive assistance under this  
9 paragraph for the period—

10 (I) beginning on the date on  
11 which the Federal agency excludes the  
12 eligible livestock producer from using  
13 the managed rangeland for grazing;  
14 and

15 (II) ending on the last day of the  
16 Federal lease of the eligible livestock  
17 producer.

18 (ii) LIMITATION.—An eligible livestock  
19 producer may only receive assistance under  
20 this paragraph for losses that occur on not  
21 more than 180 days per year.

22 (5) NO DUPLICATIVE PAYMENTS.—An eligible  
23 livestock producer may elect to receive assistance for  
24 grazing or pasture feed losses due to drought condi-  
25 tions under paragraph (3) or fire under paragraph

1 (4), but not both for the same loss, as determined  
2 by the Secretary.

3 (d) EMERGENCY ASSISTANCE FOR LIVESTOCK,  
4 HONEY BEES, AND FARM-RAISED FISH.—

5 (1) IN GENERAL.—The Secretary shall use not  
6 more than \$5,000,000 of the funds of the Com-  
7 modity Credit Corporation to provide emergency re-  
8 lief to eligible producers of livestock, honey bees, and  
9 farm-raised fish to aid in the reduction of losses due  
10 to disease (including cattle tick fever), adverse  
11 weather, or other conditions, such as blizzards and  
12 wildfires, as determined by the Secretary, that are  
13 not covered under subsection (b) or (c). The Sec-  
14 retary also may use any of the funds previously  
15 made available for the purposes described in this  
16 paragraph, and not obligated as of the date of the  
17 enactment of this Act, for losses incurred in fiscal  
18 year 2012 or 2013.

19 (2) USE OF FUNDS.—Funds made available  
20 under this subsection shall be used to reduce losses  
21 caused by feed or water shortages, disease, or other  
22 factors as determined by the Secretary.

23 (3) AVAILABILITY OF FUNDS.—Any funds made  
24 available under this subsection shall remain available  
25 until expended.

1 (e) TREE ASSISTANCE PROGRAM.—

2 (1) DEFINITIONS.—In this subsection:

3 (A) ELIGIBLE ORCHARDIST.—The term  
4 “eligible orchardist” means a person that pro-  
5 duces annual crops from trees for commercial  
6 purposes.

7 (B) NATURAL DISASTER.—The term “nat-  
8 ural disaster” means plant disease, insect infes-  
9 tation, drought, fire, freeze, flood, earthquake,  
10 lightning, or other occurrence, as determined by  
11 the Secretary.

12 (C) NURSERY TREE GROWER.—The term  
13 “nursery tree grower” means a person who pro-  
14 duces nursery, ornamental, fruit, nut, or Christ-  
15 mas trees for commercial sale, as determined by  
16 the Secretary.

17 (D) TREE.—The term “tree” includes a  
18 tree, bush, and vine.

19 (2) ELIGIBILITY.—

20 (A) LOSS.—Subject to subparagraph (B),  
21 the Secretary shall use such sums as are nec-  
22 essary of the funds of the Commodity Credit  
23 Corporation to provide assistance—

24 (i) under paragraph (3) to eligible or-  
25 chardists and nursery tree growers that

1           planted trees for commercial purposes but  
2           lost the trees as a result of a natural dis-  
3           aster, as determined by the Secretary; and

4                   (ii) under paragraph (3)(B) to eligible  
5           orchardists and nursery tree growers that  
6           have a production history for commercial  
7           purposes on planted or existing trees but  
8           lost the trees as a result of a natural dis-  
9           aster, as determined by the Secretary.

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

17           (3) ASSISTANCE.—Subject to paragraph (4),  
18           the assistance provided by the Secretary to eligible  
19           orchardists and nursery tree growers for losses de-  
20           scribed in paragraph (2) shall consist of—

21                   (A)(i) reimbursement of 70 percent of the  
22           cost of replanting trees lost due to a natural  
23           disaster, as determined by the Secretary, in ex-  
24           cess of 15 percent mortality (adjusted for nor-  
25           mal mortality); or

1 (ii) at the option of the Secretary, suffi-  
2 cient seedlings to reestablish a stand; and

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

13 (4) LIMITATIONS ON ASSISTANCE.—

14 (A) DEFINITIONS OF LEGAL ENTITY AND  
15 PERSON.—In this paragraph, the terms “legal  
16 entity” and “person” have the meaning given  
17 those terms in section 1001(a) of the Food Se-  
18 curity Act of 1985 (7 U.S.C. 1308(a)).

19 (B) AMOUNT.—The total amount of pay-  
20 ments received, directly or indirectly, by a per-  
21 son or legal entity (excluding a joint venture or  
22 general partnership) under this subsection may  
23 not exceed \$100,000 for any crop year, or an  
24 equivalent value in tree seedlings.

1           (C) ACRES.—The total quantity of acres  
2           planted to trees or tree seedlings for which a  
3           person or legal entity shall be entitled to receive  
4           payments under this subsection may not exceed  
5           500 acres.

6           (f) PAYMENT LIMITATIONS.—

7           (1) DEFINITIONS OF LEGAL ENTITY AND PER-  
8           SON.—In this subsection, the terms “legal entity”  
9           and “person” have the meaning given those terms in  
10          section 1001(a) of the Food Security Act of 1985 (7  
11          U.S.C. 1308(a)).

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

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

22          (4) DIRECT CONTRIBUTION.—Subsections (e)  
23          and (f) of section 1001 of the Food Security Act of  
24          1985 (7 U.S.C. 1308) or any successor provisions

1 relating to direct attribution shall apply with respect  
2 to assistance provided under this section.

3 (g) APPLICATION.—This section shall apply to losses  
4 that are incurred as the result of a disaster, adverse  
5 weather, or other environmental condition that occurs on  
6 or after October 1, 2011, and before September 30, 2013,  
7 as determined by the Secretary.

8 (h) DETERMINATIONS BY SECRETARY.—A deter-  
9 mination made by the Secretary under this section shall  
10 be final and conclusive.

11 (i) REGULATIONS.—

12 (1) IN GENERAL.—Except as otherwise pro-  
13 vided in this subsection, not later than 90 days after  
14 the date of enactment of this Act, the Secretary and  
15 the Commodity Credit Corporation, as appropriate,  
16 shall promulgate such regulations as are necessary  
17 to implement this section.

18 (2) PROCEDURE.—The promulgation of the reg-  
19 ulations and administration of this section shall be  
20 made without regard to—

21 (A) the notice and comment provisions of  
22 section 553 of title 5, United States Code;

23 (B) chapter 35 of title 44, United States  
24 Code (commonly known as the “Paperwork Re-  
25 duction Act”); and



1 (C) the Statement of Policy of the Sec-  
2 retary of Agriculture effective July 24, 1971  
3 (36 Fed. Reg. 13804), relating to notices of  
4 proposed rulemaking and public participation in  
5 rulemaking.

6 (3) CONGRESSIONAL REVIEW OF AGENCY RULE-  
7 MAKING.—In carrying out this subsection, the Sec-  
8 retary shall use the authority provided under section  
9 808 of title 5, United States Code.

10 **SEC. 202. NONINSURED CROP ASSISTANCE PROGRAM.**

11 (a) IN GENERAL.—Section 196 of the Federal Agri-  
12 culture Improvement and Reform Act of 1996 (7 U.S.C.  
13 7333) is amended—

14 (1) in subsection (a)—

15 (A) by striking paragraph (1) and insert-  
16 ing the following:

17 “(1) IN GENERAL.—

18 “(A) COVERAGES.—In the case of an eligi-  
19 ble crop described in paragraph (2), the Sec-  
20 retary of Agriculture shall operate a noninsured  
21 crop disaster assistance program to provide cov-  
22 erages based on individual yields (other than  
23 for value-loss crops) equivalent to—

1                   “(i) catastrophic risk protection avail-  
2                   able under section 508(b) of the Federal  
3                   Crop Insurance Act (7 U.S.C. 1508(b)); or

4                   “(ii) additional coverage available  
5                   under subsections (c) and (h) of section  
6                   508 of that Act (7 U.S.C. 1508) that does  
7                   not exceed 65 percent.

8                   “(B) ADMINISTRATION.—The Secretary  
9                   shall carry out this section through the Farm  
10                  Service Agency (referred to in this section as  
11                  the ‘Agency’).”; and

12                  (B) in paragraph (2)—

13                   (i) in subparagraph (A)—

14                   (I) in clause (i), by striking  
15                   “and” after the semicolon at the end;

16                   (II) by redesignating clause (ii)  
17                   as clause (iii); and

18                   (III) by inserting after clause (i)  
19                   the following:

20                   “(ii) for which additional coverage  
21                   under subsections (c) and (h) of section  
22                   508 of that Act (7 U.S.C. 1508) is not  
23                   available; and”; and

24                   (ii) in subparagraph (B), by striking  
25                   “(including ornamental fish)” and insert-

1                   ing “(including ornamental fish, but ex-  
2                   cluding tropical fish)”;

3                   (2) in subsection (d), by striking “The Sec-  
4                   retary” and inserting “Subject to subsection (l), the  
5                   Secretary”;

6                   (3) in subsection (k)(1)—

7                   (A) in subparagraph (A), by striking  
8                   “\$250” and inserting “\$260”; and

9                   (B) in subparagraph (B)—

10                   (i) by striking “\$750” and inserting  
11                   “\$780”; and

12                   (ii) by striking “\$1,875” and insert-  
13                   ing “\$1,950”; and

14                   (4) by adding at the end the following:

15                   “(l) PAYMENT EQUIVALENT TO ADDITIONAL COV-  
16                   ERAGE.—

17                   “(1) IN GENERAL.—The Secretary shall make  
18                   available to a producer eligible for noninsured assist-  
19                   ance under this section a payment equivalent to an  
20                   indemnity for additional coverage under subsections  
21                   (c) and (h) of section 508 of the Federal Crop In-  
22                   surance Act (7 U.S.C. 1508) that does not exceed  
23                   65 percent, computed by multiplying—

24                   “(A) the quantity that is less than 50 to  
25                   65 percent of the established yield for the crop,

1 as determined by the Secretary, specified in in-  
2 crements of 5 percent;

3 “(B) 100 percent of the average market  
4 price for the crop, as determined by the Sec-  
5 retary; and

6 “(C) a payment rate for the type of crop,  
7 as determined by the Secretary, that reflects—

8 “(i) in the case of a crop that is pro-  
9 duced with a significant and variable har-  
10 vesting expense, the decreasing cost in-  
11 curred in the production cycle for the crop  
12 that is, as applicable—

13 “(I) harvested;

14 “(II) planted but not harvested;

15 or

16 “(III) prevented from being  
17 planted because of drought, flood, or  
18 other natural disaster, as determined  
19 by the Secretary; or

20 “(ii) in the case of a crop that is pro-  
21 duced without a significant and variable  
22 harvesting expense, such rate as shall be  
23 determined by the Secretary.

24 “(2) PREMIUM.—To be eligible to receive a pay-  
25 ment under this subsection, a producer shall pay—

1           “(A) the service fee required by subsection  
2           (k); and

3           “(B) a premium for the applicable crop  
4           year that is equal to—

5                   “(i) the product obtained by multi-  
6                   plying—

7                           “(I) the number of acres devoted  
8                           to the eligible crop;

9                           “(II) the yield, as determined by  
10                          the Secretary under subsection (e);

11                          “(III) the coverage level elected  
12                          by the producer;

13                          “(IV) the average market price,  
14                          as determined by the Secretary; and

15                          “(ii) 5.25-percent premium fee.

16           “(3) LIMITED RESOURCE, BEGINNING, AND SO-  
17           CIALLY DISADVANTAGED FARMERS.—The additional  
18           coverage made available under this subsection shall  
19           be available to limited resource, beginning, and so-  
20           cially disadvantaged producers, as determined by the  
21           Secretary, in exchange for a premium that is 50 per-  
22           cent of the premium determined for a producer  
23           under paragraph (2).

24           “(4) ADDITIONAL AVAILABILITY.—

1           “(A) IN GENERAL.—As soon as prac-  
2           ticable, the Secretary shall make assistance  
3           available to producers of an otherwise eligible  
4           crop described in subsection (a)(2) that suffered  
5           losses—

6                   “(i) to a 2012 annual fruit crop  
7                   grown on a bush or tree; and

8                   “(ii) in a county covered by a declara-  
9                   tion by the Secretary of a natural disaster  
10                  for production losses due to a freeze or  
11                  frost.

12           “(B) ASSISTANCE.—The Secretary shall  
13           make assistance available under subparagraph  
14           (A) in an amount equivalent to assistance avail-  
15           able under paragraph (1), less any fees not pre-  
16           viously paid under paragraph (2).”.

17           (b) TERMINATION OF AMENDMENTS.—

18                   (1) IN GENERAL.—Effective October 1, 2017,  
19                   the amendments made by subsection (a) (other than  
20                   the amendment made by subsection (a)(1)(B)(ii))  
21                   are repealed

22                   (2) ADMINISTRATION.—Effective October 1,  
23                   2017, section 196 of the Federal Agriculture Im-  
24                   provement and Reform Act of 1996 (7 U.S.C. 7333)  
25                   shall be applied and administered as if the amend-

1       ments made by subsection (a) (other than the  
2       amendment made by subsection (a)(1)(B)(ii)) had  
3       not been enacted.

4                                   **TITLE III—DAIRY**  
5 **Subtitle A—Dairy Producer Margin**  
6 **Protection and Dairy Market**  
7 **Stabilization Programs**

8 **SEC. 301. DEFINITIONS.**

9       In this subtitle:

10           (1) **ACTUAL DAIRY PRODUCER MARGIN.**—The  
11       term “actual dairy producer margin” means the dif-  
12       ference between the all-milk price and the average  
13       feed cost, as calculated under section 302.

14           (2) **ALL-MILK PRICE.**—The term “all-milk  
15       price” means the average price received, per hun-  
16       dredweight of milk, by dairy producers for all milk  
17       sold to plants and dealers in the United States, as  
18       determined by the Secretary.

19           (3) **AVERAGE FEED COST.**—The term “average  
20       feed cost” means the average cost of feed used by  
21       a dairy operation to produce a hundredweight of  
22       milk, determined under section 302 using the sum of  
23       the following:

24                   (A) The product determined by multiplying  
25                   1.0728 by the price of corn per bushel.

1 (B) The product determined by multiplying  
2 0.00735 by the price of soybean meal per ton.

3 (C) The product determined by multiplying  
4 0.0137 by the price of alfalfa hay per ton.

5 (4) BASIC PRODUCTION HISTORY.—The term  
6 “basic production history” means the production  
7 history determined for a participating dairy producer  
8 under section 313(a) for provision of basic margin  
9 protection.

10 (5) CONSECUTIVE TWO-MONTH PERIOD.—The  
11 term “consecutive two-month period” refers to the  
12 two-month period consisting of the months of Janu-  
13 ary and February, March and April, May and June,  
14 July and August, September and October, or No-  
15 vember and December, respectively.

16 (6) DAIRY PRODUCER.—

17 (A) IN GENERAL.—Subject to subpara-  
18 graph (B), the term “dairy producer” means an  
19 individual or entity that directly or indirectly  
20 (as determined by the Secretary)—

21 (i) shares in the risk of producing  
22 milk; and

23 (ii) makes contributions (including  
24 land, labor, management, equipment, or  
25 capital) to the dairy operation of the indi-



1           vidual or entity that are at least commen-  
2           surate with the share of the individual or  
3           entity of the proceeds of the operation.

4           (B) ADDITIONAL OWNERSHIP STRUC-  
5           TURES.—The Secretary shall determine addi-  
6           tional ownership structures to be covered by the  
7           definition of dairy producer.

8           (7) HANDLER.—

9           (A) IN GENERAL.—The term “handler”  
10          means the initial individual or entity making  
11          payment to a dairy producer for milk produced  
12          in the United States and marketed for commer-  
13          cial use.

14          (B) PRODUCER-HANDLER.—The term in-  
15          cludes a “producer-handler” when the producer  
16          satisfies the definition in subparagraph (A).

17          (8) MARGIN PROTECTION PROGRAM.—The term  
18          “margin protection program” means the dairy pro-  
19          ducer margin protection program required by part 1.

20          (9) PARTICIPATING DAIRY PRODUCER.—The  
21          term “participating dairy producer” means a dairy  
22          producer that—

23                 (A) signs up under section 312 to partici-  
24                 pate in the margin protection program under  
25                 part 1; and

1 (B) as a result, also participates in the sta-  
2 bilization program under part 2.

3 (10) STABILIZATION PROGRAM.—The term  
4 “stabilization program” means the dairy market sta-  
5 bilization program required by part 2 for all partici-  
6 pating dairy producers.

7 (11) STABILIZATION PROGRAM BASE.—The  
8 term “stabilization program base”, with respect to a  
9 participating dairy producer, means the stabilization  
10 program base calculated for the producer under sec-  
11 tion 331(b).

12 (12) SUPPLEMENTAL PRODUCTION HISTORY.—  
13 The term “supplemental production history” means  
14 the production history determined for a participating  
15 dairy producer under section 313(b) if the dairy pro-  
16 ducer purchases supplemental margin protection.

17 (13) UNITED STATES.—The term “United  
18 States”, in a geographical sense, means the 50  
19 States, the District of Columbia, American Samoa,  
20 Guam, the Commonwealth of the Northern Mariana  
21 Islands, the Commonwealth of Puerto Rico, the Vir-  
22 gin Islands of the United States, and any other ter-  
23 ritory or possession of the United States.

1 **SEC. 302. CALCULATION OF AVERAGE FEED COST AND AC-**  
2 **TUAL DAIRY PRODUCER MARGINS.**

3 (a) CALCULATION OF AVERAGE FEED COST.—The  
4 Secretary shall calculate the national average feed cost for  
5 each month using the following data:

6 (1) The price of corn for a month shall be the  
7 price received during that month by farmers in the  
8 United States for corn, as reported in the monthly  
9 Agricultural Prices report by the Secretary.

10 (2) The price of soybean meal for a month shall  
11 be the central Illinois price for soybean meal, as re-  
12 ported in the Market News-Monthly Soybean Meal  
13 Price Report by the Secretary.

14 (3) The price of alfalfa hay for a month shall  
15 be the price received during that month by farmers  
16 in the United States for alfalfa hay, as reported in  
17 the monthly Agricultural Prices report by the Sec-  
18 retary.

19 (b) CALCULATION OF ACTUAL DAIRY PRODUCER  
20 MARGINS.—

21 (1) MARGIN PROTECTION PROGRAM.—For use  
22 in the margin protection program under part 1, the  
23 Secretary shall calculate the actual dairy producer  
24 margin for each consecutive two-month period by  
25 subtracting—

1 (A) the average feed cost for that consecu-  
2 tive two-month period, determined in accord-  
3 ance with subsection (a); from

4 (B) the all-milk price for that consecutive  
5 two-month period.

6 (2) STABILIZATION PROGRAM.—For use in the  
7 stabilization program under part 2, the Secretary  
8 shall calculate each month the actual dairy producer  
9 margin for the preceding month by subtracting—

10 (A) the average feed cost for that pre-  
11 ceding month, determined in accordance with  
12 subsection (a); from

13 (B) the all-milk price for that preceding  
14 month.

15 (3) TIME FOR CALCULATIONS.—The calcula-  
16 tions required by paragraphs (1) and (2) shall be  
17 made as soon as practicable each month using the  
18 full month price of the applicable reference month,  
19 but in no case shall the calculation be made later  
20 than the last business day of the month.

1                   **PART 1—DAIRY PRODUCER MARGIN**  
2                   **PROTECTION PROGRAM**  
3 **SEC. 311. ESTABLISHMENT OF DAIRY PRODUCER MARGIN**  
4                   **PROTECTION PROGRAM.**

5           The Secretary shall establish and administer a dairy  
6 producer margin protection program for the purpose of  
7 protecting dairy producer income by paying participating  
8 dairy producers—

9                   (1) basic margin protection payments when ac-  
10 tual dairy producer margins are less than the  
11 threshold levels for such payments; and

12                   (2) supplemental margin protection payments if  
13 purchased by a participating dairy producer.

14 **SEC. 312. PARTICIPATION OF DAIRY PRODUCERS IN MAR-**  
15                   **GIN PROTECTION PROGRAM.**

16           (a) **ELIGIBILITY.**—All dairy producers in the United  
17 States are eligible to participate in the margin protection  
18 program, except that a dairy producer must sign up with  
19 the Secretary before the producer may receive—

20                   (1) basic margin protection payments under  
21 section 314; and

22                   (2) if the dairy producer purchases supple-  
23 mental margin protection under section 315, supple-  
24 mental margin protection payments under such sec-  
25 tion.

26           (b) **SIGN-UP PROCESS.**—

1           (1) IN GENERAL.—The Secretary shall allow all  
2 interested dairy producers to sign up to participate  
3 in the margin protection program. The Secretary  
4 shall specify the manner and form by which a dairy  
5 producer must sign up to participate in the margin  
6 protection program.

7           (2) TREATMENT OF MULTI-PRODUCER OPER-  
8 ATIONS.—If a dairy operation consists of more than  
9 one dairy producer, all of the dairy producers of the  
10 operation shall be treated as a single dairy producer  
11 for purposes of—

12                   (A) registration to receive basic margin  
13 protection and purchase supplemental margin  
14 protection;

15                   (B) payment of the administrative fee  
16 under subsection (e) and producer premiums  
17 under section 315; and

18                   (C) participation in the stabilization pro-  
19 gram under part 2.

20           (3) TREATMENT OF PRODUCERS WITH MUL-  
21 TIPLE DAIRY OPERATIONS.—If a dairy producer op-  
22 erates two or more dairy operations, each dairy op-  
23 eration of the producer shall require a separate reg-  
24 istration to receive basic margin protection and pur-  
25 chase supplemental margin protection. Only those

1 dairy operations so registered shall be subject to the  
2 stabilization program.

3 (c) TIME FOR SIGN UP OF EXISTING DAIRY PRO-  
4 DUCERS.—During the 90-day period beginning on the  
5 date of the initiation of the sign-up period for the margin  
6 protection program, a dairy producer that is actively en-  
7 gaged in a dairy operation as of such date may sign up  
8 with the Secretary—

9 (1) to receive basic margin protection; and

10 (2) if the producer elects, to purchase supple-  
11 mental margin protection.

12 (d) RETROACTIVITY PROVISION.—

13 (1) NOTICE OF AVAILABILITY OF RETROACTIVE  
14 PROTECTION.—Not later than 30 days after the ef-  
15 fective date of this Act, the Secretary shall publish  
16 a notice in the Federal Register to inform dairy pro-  
17 ducers of the availability of retroactive basic margin  
18 protection and retroactive supplemental margin pro-  
19 tection, subject to the condition that interested pro-  
20 ducers must file a notice of intent (in such form and  
21 manner as the Secretary specifies in the Federal  
22 Register notice)—

23 (A) to participate in the margin protection  
24 program and receive basic margin protection;  
25 and

1 (B) at the election of the producer under  
2 paragraph (3), to also obtain supplemental  
3 margin protection.

4 (2) RETROACTIVE BASIC MARGIN PROTEC-  
5 TION.—

6 (A) AVAILABILITY.—If a dairy producer  
7 files a notice of intent under paragraph (1) to  
8 participate in the margin protection program  
9 before the initiation of the sign-up period for  
10 the margin protection program and subse-  
11 quently signs up for the margin protection pro-  
12 gram, the producer shall receive basic margin  
13 protection retroactive to the effective date of  
14 this title.

15 (B) DURATION.—Retroactive basic margin  
16 protection under this paragraph for a dairy pro-  
17 ducer shall apply from the effective date of this  
18 title until the date on which the producer signs  
19 up for the margin protection program.

20 (3) RETROACTIVE SUPPLEMENTAL MARGIN  
21 PROTECTION.—

22 (A) AVAILABILITY.—Subject to subpara-  
23 graphs (B) and (C), if a dairy producer files a  
24 notice of intent under paragraph (1) to partici-  
25 pate in the margin protection program and ob-



1           tain supplemental margin protection and subse-  
2           quently signs up for the margin protection pro-  
3           gram, the producer shall receive supplemental  
4           margin protection, in addition to the basic mar-  
5           gin protection under paragraph (2), retroactive  
6           to the effective date of this title.

7           (B) DEADLINE FOR SUBMISSION.—A no-  
8           tice of intent to obtain retroactive supplemental  
9           margin protection must be filed with the Sec-  
10          retary no later than the earlier of the following:

11           (i) 90 days after the date on which  
12           the Secretary publishes the notice in the  
13           Federal Register required by paragraph  
14           (1).

15           (ii) The date on which the Secretary  
16           initiates the sign up period for the margin  
17           protection program.

18          (C) ELECTION OF COVERAGE LEVEL AND  
19          PERCENTAGE OF COVERAGE.—To be sufficient  
20          to obtain retroactive supplemental margin pro-  
21          tection, the notice of intent to participate filed  
22          by a dairy producer must specify—

23           (i) a selected coverage level that is  
24           higher, in any increment of \$0.50, than the  
25           payment threshold for basic margin protec-

1                   tion specified in section 314(b), but not to  
2                   exceed \$6.00; and

3                   (ii) the percentage of coverage, subject  
4                   to limits imposed in section 315(c).

5                   (D) DURATION.—The coverage level and  
6                   percentage specified in the notice of intent to  
7                   participate filed by a dairy producer shall apply  
8                   from the effective date of this title until the  
9                   earlier of the following:

10                   (i) October 1, 2013.

11                   (ii) The date on which the Secretary  
12                   initiates the sign-up period for the margin  
13                   protection program.

14                   (4) NOTICE OF INTENT AND OBLIGATION TO  
15                   PARTICIPATE IN MARGIN PROTECTION PROGRAM.—

16                   In no way does filing a notice of intent under this  
17                   subsection obligate a dairy producer to sign up for  
18                   the margin protection program once the program  
19                   rules are final, but if a producer does file a notice  
20                   of intent and subsequently signs up for the margin  
21                   protection program, that dairy producer is obligated  
22                   to pay fees and premiums for any retroactive basic  
23                   margin protection or retroactive supplemental mar-  
24                   gin protection selected in the notice of intent.

25                   (e) ADMINISTRATIVE FEE.—

1           (1) ADMINISTRATIVE FEE REQUIRED.—A dairy  
2 producer shall pay an administrative fee under this  
3 subsection to sign up to participate in the margin  
4 protection program.

5           (2) FEE AMOUNT.—The administrative fee for  
6 a participating dairy producer for calendar year  
7 2013 is based on the pounds of milk (in millions)  
8 marketed by the dairy producer during calendar year  
9 2012, as follows:

Pounds Marketed (in millions)	Admin. Fee
less than 1	\$100
1 to 10	\$250
more than 10 to 40	\$500
more than 40	\$1000

10           (3) DEPOSIT OF FEES.—All administrative fees  
11 collected under this subsection shall be credited to  
12 the fund or account used to cover the costs incurred  
13 to administer the margin protection program and  
14 the stabilization program and shall be available to  
15 the Secretary, without further appropriation and  
16 until expended, for use or transfer as provided in  
17 paragraph (4).

18           (4) USE OF FEES.—The Secretary shall use ad-  
19 ministrative fees collected under this subsection—

1           (A) to cover administrative costs of the  
2           margin protection program and stabilization  
3           program; and

4           (B) to the extent funds remain available  
5           after operation of subparagraphs (A), to cover  
6           costs of the Department of Agriculture relating  
7           to reporting of dairy market news and to carry  
8           out section 273 of the Agricultural Marketing  
9           Act of 1946 (7 U.S.C. 1637b).

10       (f) RECONSTITUTION.—The Secretary shall prohibit  
11       a dairy producer from reconstituting a dairy operation for  
12       the sole purpose of the dairy producer—

13           (1) receiving basic margin protection;

14           (2) purchasing supplemental margin protection;

15       or

16           (3) avoiding participation in the stabilization  
17       program.

18       (g) PRIORITY CONSIDERATION.—A dairy operation  
19       that participates in the margin protection program shall  
20       be eligible to participate in the livestock gross margin for  
21       dairy program under the Federal Crop Insurance Act (7  
22       U.S.C. 1501 et seq.) only after operations that are not  
23       participating in the production margin protection program  
24       are enrolled.

1 **SEC. 313. PRODUCTION HISTORY OF PARTICIPATING DAIRY**  
2 **PRODUCERS.**

3 (a) PRODUCTION HISTORY FOR BASIC MARGIN PRO-  
4 TECTION.—

5 (1) DETERMINATION REQUIRED.—For purposes  
6 of providing basic margin protection, the Secretary  
7 shall determine the basic production history of the  
8 dairy operation of each participating dairy producer  
9 in the margin protection program.

10 (2) CALCULATION.—Except as provided in  
11 paragraph (3), the basic production history of a par-  
12 ticipating dairy producer for basic margin protection  
13 is equal to the highest annual milk marketings of  
14 the dairy producer during one of the preceding three  
15 calendar years.

16 (b) SUPPLEMENTAL PRODUCTION HISTORY FOR  
17 SUPPLEMENTAL MARGIN PROTECTION.—

18 (1) DETERMINATION REQUIRED.—For purposes  
19 of providing supplemental margin protection for a  
20 participating dairy producer that purchases supple-  
21 mental margin protection under section 315, the  
22 Secretary shall determine the supplemental produc-  
23 tion history of the dairy operation of the dairy pro-  
24 ducer under paragraph (2).

25 (2) CALCULATION.—The supplemental produc-  
26 tion history of a participating dairy producer is

1 equal to the actual milk marketings of the dairy pro-  
2 ducer during the preceding calendar year.

3 (c) REQUIRED INFORMATION.—A participating dairy  
4 producer shall provide all information that the Secretary  
5 may require in order to establish—

6 (1) the basic production history of the dairy op-  
7 eration of the dairy producer under subsection (a);  
8 and

9 (2) the production history of the dairy oper-  
10 ation of the dairy producer whenever the producer  
11 purchases supplemental margin protection under  
12 section 315.

13 (d) TRANSFER OF PRODUCTION HISTORIES.—

14 (1) TRANSFER BY SALE OR LEASE.—In promul-  
15 gating the rules to initiate the margin protection  
16 program, the Secretary shall specify the conditions  
17 under which and the manner by which the produc-  
18 tion history of a dairy operation may be transferred  
19 by sale or lease.

20 (2) COVERAGE LEVEL.—

21 (A) BASIC MARGIN PROTECTION.—A pur-  
22 chaser or lessee to whom the Secretary trans-  
23 fers a basic production history under this sub-  
24 section shall not obtain a different level of basic  
25 margin protection than the basic margin protec-

1           tion coverage held by the seller or lessor from  
2           whom the transfer was obtained.

3                   (B) SUPPLEMENTAL MARGIN PROTEC-  
4           TION.—A purchaser or lessee to whom the Sec-  
5           retary transfers the supplemental production  
6           history under this subsection shall not obtain a  
7           different level of supplemental margin protec-  
8           tion coverage than the supplemental margin  
9           protection coverage in effect for the seller or  
10          lessor from whom the transfer was obtained for  
11          the calendar year in which the transfer was  
12          made.

13          (e) MOVEMENT AND TRANSFER OF PRODUCTION  
14          HISTORY.—

15                   (1) MOVEMENT AND TRANSFER AUTHOR-  
16          IZED.—Subject to paragraph (2), if a dairy producer  
17          moves from one location to another location, the  
18          dairy producer may maintain the basic production  
19          history and supplemental production history associ-  
20          ated with the operation.

21                   (2) NOTIFICATION REQUIREMENT.—A dairy  
22          producer shall notify the Secretary of any move of  
23          a dairy operation under paragraph (1).

24                   (3) SUBSEQUENT OCCUPATION OF VACATED LO-  
25          CATION.—A party subsequently occupying a dairy

1 operation location vacated as described in paragraph  
2 (1) shall have no interest in the basic production  
3 history or supplemental production history pre-  
4 viously associated with the operation at such loca-  
5 tion.

6 **SEC. 314. BASIC MARGIN PROTECTION.**

7 (a) **ELIGIBILITY.**—All participating dairy producers  
8 are eligible to receive basic margin protection under the  
9 margin protection program.

10 (b) **PAYMENT THRESHOLD.**—Participating dairy pro-  
11 ducers shall receive a basic margin protection payment  
12 whenever the average actual dairy producer margin for a  
13 consecutive two-month period is less than \$4.00 per hun-  
14 dredweight of milk.

15 (c) **BASIC MARGIN PROTECTION PAYMENT.**—

16 (1) **PAYMENT REQUIRED.**—The Secretary shall  
17 make a basic margin protection payment to each  
18 participating dairy producer whenever such a pay-  
19 ment is required by subsection (b).

20 (2) **AMOUNT OF PAYMENT.**—The basic margin  
21 protection payment for the dairy operation of a par-  
22 ticipating dairy producer for a consecutive two-  
23 month period shall be determined as follows:

24 (A) The Secretary shall calculate the dif-  
25 ference between the average actual dairy pro-



1           ducer margin for the consecutive two-month pe-  
2           riod and \$4.00, except that, if the difference is  
3           more than \$4.00, the Secretary shall use \$4.00.

4           (B) The Secretary shall multiply the  
5           amount under subparagraph (A) by the lesser  
6           of the following:

7                   (i) 80 percent of the production his-  
8                   tory of the dairy producer, divided by six.

9                   (ii) The actual amount of milk mar-  
10                  keted by the dairy operation of the dairy  
11                  producer during the consecutive two-month  
12                  period.

13 **SEC. 315. SUPPLEMENTAL MARGIN PROTECTION.**

14           (a) ELECTION OF SUPPLEMENTAL MARGIN PROTEC-  
15           TION.—A participating dairy producer may purchase sup-  
16           plemental margin protection to protect a higher level of  
17           the income of a participating dairy producer than the in-  
18           come level guaranteed by basic margin protection under  
19           section 314.

20           (b) SELECTION OF PAYMENT THRESHOLD.—A par-  
21           ticipating dairy producer purchasing supplemental margin  
22           protection shall elect a coverage level that is higher, in  
23           any increment of \$0.50, than the payment threshold for  
24           basic margin protection specified in section 314(b), but  
25           not to exceed \$8.00.

1           (c) SELECTION OF COVERAGE PERCENTAGE.—A par-  
2     ticipating dairy producer purchasing supplemental margin  
3     protection shall elect a percentage of coverage equal to not  
4     more than 90 percent, nor less than 25 percent, of the  
5     supplemental production history of the dairy operation of  
6     the participating dairy producer.

7           (d) PRODUCER PREMIUMS FOR SUPPLEMENTAL  
8     MARGIN PROTECTION.—

9           (1) PREMIUMS REQUIRED.—A participating  
10    dairy producer that purchases supplemental margin  
11    protection shall pay an annual premium equal to the  
12    product obtained by multiplying—

13           (A) the percentage selected by the dairy  
14    producer under subsection (c);

15           (B) the supplemental production history of  
16    the dairy producer; and

17           (C) the premium per hundredweight of  
18    milk, as specified in the applicable table under  
19    paragraph (2) or (3).

20           (2) PREMIUM PER HUNDREDWEIGHT FOR FIRST  
21    4 MILLION POUNDS OF PRODUCTION.—For the first  
22    4,000,000 pounds of milk marketings included in  
23    the supplemental production history of a partici-  
24    pating dairy producer, the premium per hundred-

1 weight corresponding to each coverage level specified  
 2 in the following table is as follows:

Coverage Level	Premium per Cwt.
\$4.50	\$0.01
\$5.00	\$0.025
\$5.50	\$0.04
\$6.00	\$0.065
\$6.50	\$0.09
\$7.00	\$0.434
\$7.50	\$0.590
\$8.00	\$0.922

3 (3) PREMIUM PER HUNDREDWEIGHT FOR PRO-  
 4 Duction IN EXCESS OF 4 MILLION POUNDS.—For  
 5 milk marketings in excess of 4,000,000 pounds in-  
 6 cluded in the supplemental production history of a  
 7 participating dairy producer, the premium per hun-  
 8 dredweight corresponding to each coverage level is as  
 9 follows:

Coverage Level	Premium per Cwt.
\$4.50	\$0.015
\$5.00	\$0.036
\$5.50	\$0.081
\$6.00	\$0.155
\$6.50	\$0.230
\$7.00	\$0.434
\$7.50	\$0.590
\$8.00	\$0.922

10 (4) TIME FOR PAYMENT.—In promulgating the  
 11 rules to initiate the margin protection program, the  
 12 Secretary shall provide more than one method by  
 13 which a participating dairy producer that purchases  
 14 supplemental margin protection for a calendar year

1       may pay the premium under this subsection that  
2       maximizes producer payment flexibility and program  
3       integrity.

4       (e) PRODUCER'S PREMIUM OBLIGATIONS.—A par-  
5       ticipating dairy producer that purchases supplemental  
6       margin protection shall be legally obligated to pay the ap-  
7       plicable premium for such protection, except that, if the  
8       dairy producer retires, the producer may request that Sec-  
9       retary cancel the supplemental margin protection if the  
10      producer has terminated the dairy operation entirely and  
11      certifies under oath that the producer will not be actively  
12      engaged in any dairy operation for at least the next seven  
13      years.

14      (f) SUPPLEMENTAL PAYMENT THRESHOLD.—A par-  
15      ticipating dairy producer with supplemental margin pro-  
16      tection shall receive a supplemental margin protection  
17      payment whenever the average actual dairy producer mar-  
18      gin for a consecutive two-month period is less than the  
19      coverage level threshold selected by the dairy producer  
20      under subsection (b).

21      (g) SUPPLEMENTAL MARGIN PROTECTION PAY-  
22      MENTS.—

23           (1) IN GENERAL.—The supplemental margin  
24      protection payment for a participating dairy pro-

1       ducer is in addition to the basic margin protection  
2       payment.

3           (2) AMOUNT OF PAYMENT.—The supplemental  
4       margin protection payment for the dairy operation  
5       of a participating dairy producer shall be determined  
6       as follows:

7           (A) The Secretary shall calculate the dif-  
8       ference between the coverage level threshold se-  
9       lected by the dairy producer under subsection  
10      (b) and the greater of—

11           (i) the average actual dairy producer  
12      margin for the consecutive two-month pe-  
13      riod; or

14           (ii) \$4.00.

15           (B) The amount determined under sub-  
16      paragraph (A) shall be multiplied by the per-  
17      centage selected by the participating dairy pro-  
18      ducer under subsection (c) and by the lesser of  
19      the following:

20           (i) The supplemental production his-  
21      tory of the dairy operation of the dairy  
22      producer, divided by six.

23           (ii) The actual amount of milk mar-  
24      keted by the dairy operation of the dairy

1 producer during the consecutive two-month  
2 period.

3 **SEC. 316. EFFECT OF FAILURE TO PAY ADMINISTRATIVE**  
4 **FEEES OR PREMIUMS.**

5 (a) LOSS OF BENEFITS.—A participating dairy pro-  
6 ducer that fails to pay the required administrative fee  
7 under section 312 or is in arrears on premium payments  
8 for supplemental margin protection under section 315—

9 (1) remains legally obligated to pay the admin-  
10 istrative fee or premiums, as the case may be; and

11 (2) may not receive basic margin protection  
12 payments or supplemental margin protection pay-  
13 ments until the fees or premiums are fully paid.

14 (b) ENFORCEMENT.—The Secretary may take such  
15 action as necessary to collect administrative fees and pre-  
16 mium payments for supplemental margin protection.

17 **PART 2—DAIRY MARKET STABILIZATION**  
18 **PROGRAM**

19 **SEC. 331. ESTABLISHMENT OF DAIRY MARKET STABILIZA-**  
20 **TION PROGRAM.**

21 (a) PROGRAM REQUIRED; PURPOSE.—The Secretary  
22 shall establish and administer a dairy market stabilization  
23 program applicable to participating dairy producers for  
24 the purpose of assisting in balancing the supply of milk

1 with demand when dairy producers are experiencing low  
2 or negative operating margins.

3 (b) ELECTION OF STABILIZATION PROGRAM BASE  
4 CALCULATION METHOD.—

5 (1) ELECTION.—When a dairy producer signs  
6 up under section 312 to participate in the margin  
7 protection program, the dairy producer shall inform  
8 the Secretary of the method by which the stabiliza-  
9 tion program base for the dairy producer for fiscal  
10 year 2013 will be calculated under paragraph (3).

11 (2) CALCULATION METHODS.—A participating  
12 dairy producer may elect either of the following  
13 methods for calculation of the stabilization program  
14 base for the producer:

15 (A) The volume of the average monthly  
16 milk marketings of the dairy producer for the  
17 three months immediately preceding the an-  
18 nouncement by the Secretary that the stabiliza-  
19 tion program will become effective.

20 (B) The volume of the monthly milk mar-  
21 ketings of the dairy producer for the same  
22 month in the preceding year as the month for  
23 which the Secretary has announced the sta-  
24 bilization program will become effective.

1 **SEC. 332. THRESHOLD FOR IMPLEMENTATION AND REDUC-**  
2 **TION IN DAIRY PRODUCER PAYMENTS.**

3 (a) WHEN STABILIZATION PROGRAM REQUIRED.—

4 Except as provided in subsection (b), the Secretary shall  
5 announce that the stabilization program is in effect and  
6 order reduced payments for any participating dairy pro-  
7 ducer that exceeds the applicable percentage of the pro-  
8 ducer's stabilization program base whenever—

9 (1) the actual dairy producer margin has been  
10 \$6.00 or less per hundredweight of milk for each of  
11 the immediately preceding two months; or

12 (2) the actual dairy producer margin has been  
13 \$4.00 or less per hundredweight of milk for the im-  
14 mediately preceding month.

15 (b) EXCEPTION.—The Secretary shall not make the  
16 announcement under subsection (a) to implement the sta-  
17 bilization program or order reduced payments if any of  
18 the conditions described in section 336(b) have been met  
19 during the two months immediately preceding the month  
20 in which the announcement under subsection (a) would  
21 otherwise be made by the Secretary in the absence of this  
22 exception.

23 (c) EFFECTIVE DATE FOR IMPLEMENTATION OF  
24 PAYMENT REDUCTIONS.—Reductions in dairy producer  
25 payments shall commence beginning on the first day of



1 the month immediately following the date of the announce-  
2 ment by the Secretary under subsection (a).

3 **SEC. 333. PRODUCER MILK MARKETING INFORMATION.**

4 (a) **COLLECTION OF MILK MARKETING DATA.**—The  
5 Secretary shall establish, by regulation, a process to collect  
6 from participating dairy producers and handlers such in-  
7 formation that the Secretary considers necessary for each  
8 month during which the stabilization program is in effect.

9 (b) **REDUCE REGULATORY BURDEN.**—When imple-  
10 menting the process under subsection (a), the Secretary  
11 shall minimize the regulatory burden on dairy producers  
12 and handlers.

13 **SEC. 334. CALCULATION AND COLLECTION OF REDUCED**  
14 **DAIRY PRODUCER PAYMENTS.**

15 (a) **REDUCED PRODUCER PAYMENTS REQUIRED.**—  
16 During any month in which payment reductions are in ef-  
17 fect under the stabilization program, each handler shall  
18 reduce payments to each participating dairy producer  
19 from whom the handler receives milk.

20 (b) **REDUCTIONS BASED ON ACTUAL DAIRY PRO-**  
21 **DUCER MARGIN.**—

22 (1) **REDUCTION REQUIREMENT 1.**—Unless the  
23 reduction required by paragraph (2) or (3) applies,  
24 when the actual dairy producer margin has been  
25 \$6.00 or less per hundredweight of milk for two con-

1        consecutive months, the handler shall make payments to  
2        a participating dairy producer for a month based on  
3        the greater of the following:

4                    (A) 98 percent of the stabilization program  
5        base of the dairy producer.

6                    (B) 94 percent of the marketings of milk  
7        for the month by the producer.

8                    (2) REDUCTION REQUIREMENT 2.—Unless the  
9        reduction required by paragraph (3) applies, when  
10       the actual dairy producer margin has been \$5.00 or  
11       less per hundredweight of milk for two consecutive  
12       months, the handler shall make payments to a par-  
13       ticipating dairy producer for a month based on the  
14       greater of the following:

15                    (A) 97 percent of the stabilization program  
16        base of the dairy producer.

17                    (B) 93 percent of the marketings of milk  
18        for the month by the producer.

19                    (3) REDUCTION REQUIREMENT 3.—When the  
20       actual dairy producer margin has been \$4.00 or less  
21       for any one month, the handler shall make payments  
22       to a participating dairy producer for a month based  
23       on the greater of the following:

24                    (A) 96 percent of the stabilization program  
25        base of the dairy producer.

1 (B) 92 percent of the marketings of milk  
2 for the month by the producer.

3 (c) CONTINUATION OF REDUCTIONS.—The largest  
4 level of payment reduction required under paragraph (1),  
5 (2), or (3) of subsection (b) shall be continued for each  
6 month until the Secretary suspends the stabilization pro-  
7 gram and terminates payment reductions in accordance  
8 with section 336.

9 (d) PAYMENT REDUCTION EXCEPTION.—Notwith-  
10 standing any preceding subsection of this section, a han-  
11 dler shall make no payment reductions for a dairy pro-  
12 ducer for a month if the producer's milk marketings for  
13 the month are equal to or less than the percentage of the  
14 stabilization program base applicable to the producer  
15 under paragraph (1), (2), or (3) of subsection (b).

16 **SEC. 335. REMITTING MONIES TO THE SECRETARY AND USE**  
17 **OF MONIES.**

18 (a) REMITTING MONIES.—As soon as practicable  
19 after the end of each month during which payment reduc-  
20 tions are in effect under the stabilization program, each  
21 handler shall remit to the Secretary an amount equal to  
22 the amount by which payments to participating dairy pro-  
23 ducers are reduced by the handler under section 334.

24 (b) DEPOSIT OF MONIES.—All monies received under  
25 subsection (a) shall be available to the Secretary, without

1 further appropriation and until expended, for use or trans-  
2 fer as provided in subsection (c).

3 (c) USE OF MONIES.—

4 (1) AVAILABILITY FOR CERTAIN COMMODITY  
5 DONATIONS.—Within three months of the receipt of  
6 monies under subsection (a), the Secretary shall ob-  
7 ligate the monies for the purpose of—

8 (A) purchasing dairy products for donation  
9 to food banks and other programs that the Sec-  
10 retary determines appropriate; and

11 (B) expanding consumption and building  
12 demand for dairy products.

13 (2) NO DUPLICATION OF EFFORT.—The Sec-  
14 retary shall ensure that expenditures under para-  
15 graph (1) are compatible with, and do not duplicate,  
16 programs supported by the dairy research and pro-  
17 motion activities conducted under the Dairy Produc-  
18 tion Stabilization Act of 1983 (7 U.S.C. 4501 et  
19 seq.).

20 (3) ACCOUNTING.—The Secretary shall keep an  
21 accurate account of all monies obligated under para-  
22 graph (1).

23 (d) ENFORCEMENT.—If a participating dairy pro-  
24 ducer or handler fails to remit or collect the amounts by  
25 which payments to participating dairy producers are re-

1 duced under section 334, the producer or handler respon-  
2 sible for the failure shall be liable to the Secretary for the  
3 amount that should have been remitted or collected, plus  
4 interest. In addition to the enforcement authorities avail-  
5 able under section 337, the Secretary may enforce this  
6 subsection in the courts of the United States.

7 **SEC. 336. SUSPENSION OF REDUCED PAYMENT REQUIRE-**  
8 **MENT.**

9 (a) DETERMINATION OF PRICES.—For purposes of  
10 this section:

11 (1) The price in the United States for cheddar  
12 cheese and nonfat dry milk shall be determined by  
13 the Secretary.

14 (2) The Oceania price of cheddar cheese and  
15 skim milk powder shall be determined by the Sec-  
16 retary using the average prices in Oceania of ched-  
17 dar cheese and skim milk powder for the reference  
18 month in Oceania, as reported in the International  
19 Dairy Market News report by the Secretary.

20 (b) INITIAL SUSPENSION THRESHOLDS.—The Sec-  
21 retary shall announce that the stabilization program shall  
22 be suspended whenever the Secretary determines that—

23 (1) the actual dairy producer margin is greater  
24 than \$6.00 per hundredweight of milk for two con-  
25 secutive months;

1           (2) the dairy producer margin is equal to or  
2           less than \$6.00 (but greater than \$5.00) for two  
3           consecutive months, and during the same two con-  
4           secutive months—

5                   (A) the price in the United States for  
6                   cheddar cheese is equal to or greater than the  
7                   Oceania price of cheddar cheese; or

8                   (B) the price in the United States for non-  
9                   fat dry milk is equal to or greater than the Oce-  
10                  ania price of skim milk powder;

11           (3) the dairy producer margin is equal to or  
12           less than \$5.00 (but greater than \$4.00) for two  
13           consecutive months, and during the same two con-  
14           secutive months—

15                   (A) the price in the United States for  
16                   cheddar cheese is more than 5 percent above  
17                   the Oceania price of cheddar cheese; or

18                   (B) the price in the United States for non-  
19                   fat dry milk is more than 5 percent above the  
20                   Oceania price of skim milk powder; or

21           (4) the dairy producer margin is equal to or  
22           less than \$4.00 for two consecutive months, and  
23           during the same two consecutive months—

1 (A) the price in the United States for  
2 cheddar cheese is more than 7 percent above  
3 the Oceania price of cheddar cheese; or

4 (B) the price in the United States for non-  
5 fat dry milk is more than 7 percent above the  
6 Oceania price of skim milk powder.

7 (c) ENHANCED SUSPENSION THRESHOLDS.—If the  
8 stabilization program is not suspended pursuant to sub-  
9 section (b) for six consecutive months or more, the sta-  
10 bilization program shall be suspended whenever the Sec-  
11 retary determines that—

12 (1) the actual dairy producer margin is greater  
13 than \$6.00 per hundredweight of milk for two con-  
14 secutive months;

15 (2) the dairy producer margin is equal to or  
16 less than \$6.00 (but greater than \$5.00) for two  
17 consecutive months, and during the same two con-  
18 secutive months—

19 (A) the price in the United States for  
20 cheddar cheese is not less than 97 percent of  
21 the Oceania price of cheddar cheese; or

22 (B) the price in the United States for non-  
23 fat dry milk is not less than 97 percent of the  
24 Oceania price of skim milk powder;

1           (3) the dairy producer margin is equal to or  
2           less than \$5.00 (but greater than \$4.00) for two  
3           consecutive months, and during the same two con-  
4           secutive months—

5                   (A) the price in the United States for  
6                   cheddar cheese is more than 3 percent above  
7                   the Oceania price of cheddar cheese; or

8                   (B) the price in the United States for non  
9                   fat dry milk is more than 3 percent above the  
10                  Oceania price of skim milk powder; or

11           (4) the dairy producer margin is equal to or  
12           less than \$4.00 for two consecutive months, and  
13           during the same two consecutive months—

14                   (A) the price in the United States for  
15                   cheddar cheese is more than 6 percent above  
16                   the Oceania price of cheddar cheese; or

17                   (B) the price in the United States for non  
18                   fat dry milk is more than 6 percent above the  
19                   Oceania price of skim milk powder.

20           (d) IMPLEMENTATION BY HANDLERS.—Effective on  
21           the day after the date of the announcement by the Sec-  
22           retary under subsection (b) or (c) of the suspension of the  
23           stabilization program, the handler shall cease reducing  
24           payments to participating dairy producers under the sta-  
25           bilization program.



1 (e) CONDITION ON RESUMPTION OF STABILIZATION  
2 PROGRAM.—Upon the announcement by the Secretary  
3 under subsection (b) or (c) that the stabilization program  
4 has been suspended, the stabilization program may not be  
5 implemented again until, at the earliest—

6 (1) two months have passed, beginning on the  
7 first day of the month immediately following the an-  
8 nouncement by the Secretary; and

9 (2) the conditions of section 332(a) are again  
10 met.

11 **SEC. 337. ENFORCEMENT.**

12 (a) UNLAWFUL ACT.—It shall be unlawful and a vio-  
13 lation of the this part for any person subject to the sta-  
14 bilization program to willfully fail or refuse to provide, or  
15 delay the timely reporting of, accurate information and re-  
16 mittance of funds to the Secretary in accordance with this  
17 subpart.

18 (b) ORDER.—After providing notice and opportunity  
19 for a hearing to an affected person, the Secretary may  
20 issue an order against any person to cease and desist from  
21 continuing any violation of this subpart.

22 (c) APPEAL.—An order of the Secretary under sub-  
23 section (b) shall be final and conclusive unless an affected  
24 person files an appeal of the order of the Secretary in  
25 United States district court not later than 30 days after

1 the date of the issuance of the order. A finding of the  
2 Secretary in the order shall be set aside only if the finding  
3 is not supported by substantial evidence.

4 (d) NONCOMPLIANCE WITH ORDER.—If a person  
5 subject to this part fails to obey an order issued under  
6 subsection (b) after the order has become final and  
7 unappealable, or after the appropriate United States dis-  
8 trict court has entered a final judgment in favor of the  
9 Secretary, the United States may apply to the appropriate  
10 United States district court for enforcement of the order.  
11 If the court determines that the order was lawfully made  
12 and duly served and that the person violated the order,  
13 the court shall enforce the order.

14 **SEC. 338. AUDIT REQUIREMENTS.**

15 (a) AUDITS OF PRODUCER AND HANDLER COMPLI-  
16 ANCE.—

17 (1) AUDITS AUTHORIZED.—If determined by  
18 the Secretary to be necessary to ensure compliance  
19 by participating dairy producers and handlers with  
20 the stabilization program, the Secretary may con-  
21 duct periodic audits of participating dairy producers  
22 and handlers.

23 (2) SAMPLE OF DAIRY PRODUCERS.—Any audit  
24 conducted under this subsection shall include, at a

1 minimum, investigation of a statistically valid and  
2 random sample of participating dairy producers.

3 (b) SUBMISSION OF RESULTS.—The Secretary shall  
4 submit the results of any audit conducted under sub-  
5 section (a) to the Committee on Agriculture of the House  
6 of Representatives and the Committee on Agriculture, Nu-  
7 trition, and Forestry of the Senate and include such rec-  
8 ommendations as the Secretary considers appropriate re-  
9 garding the stabilization program.

### 10 **PART 3—COMMODITY CREDIT CORPORATION**

#### 11 **SEC. 351. USE OF COMMODITY CREDIT CORPORATION.**

12 The Secretary shall use the funds, facilities, and the  
13 authorities of the Commodity Credit Corporation to carry  
14 out this subtitle.

### 15 **PART 4—INITIATION AND DURATION**

#### 16 **SEC. 361. RULEMAKING.**

17 (a) DEADLINE FOR PROPOSAL OF RULES.—Not later  
18 than 90 days after the date of the enactment of this Act,  
19 the Secretary shall publish in the Federal Register the  
20 proposed rules for the margin protection program, the sta-  
21 bilization program, and administration of such programs.

22 (b) PROCEDURE.—The promulgation of rules under  
23 subsection (a) for the initiation of the margin protection  
24 program and the stabilization program, and for adminis-

1 tration of such programs, shall be made without regard  
2 to—

3 (1) chapter 35 of title 44, United States Code  
4 (commonly known as the Paperwork Reduction Act);

5 (2) the Statement of Policy of the Secretary of  
6 Agriculture effective July 24, 1971 (36 Fed. Reg.  
7 13804), relating to notices of proposed rulemaking  
8 and public participation in rulemaking; and

9 (3) the notice and comment provisions of sec-  
10 tion 553 of title 5, United States Code.

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

15 **SEC. 362. DURATION.**

16 The margin protection program and the stabilization  
17 program shall end on December 31, 2013.

1 **Subtitle B—Repeal or Reauthoriza-**  
2 **tion of Other Dairy-related Pro-**  
3 **visions**

4 **SEC. 381. REPEAL OF DAIRY PRODUCT PRICE SUPPORT**  
5 **AND MILK INCOME LOSS CONTRACT PRO-**  
6 **GRAMS.**

7 (a) REPEAL OF DAIRY PRODUCT PRICE SUPPORT  
8 PROGRAM.—Section 1501 of the Food, Conservation, and  
9 Energy Act of 2008 (7 U.S.C. 8771) is repealed.

10 (b) REPEAL OF MILK INCOME LOSS CONTRACT PRO-  
11 GRAM.—Section 1506 of the Food, Conservation, and En-  
12 ergy Act of 2008 (7 U.S.C. 8773) is repealed.

13 **SEC. 382. REPEAL OF DAIRY EXPORT INCENTIVE PROGRAM.**

14 (a) REPEAL.—Section 153 of the Food Security Act  
15 of 1985 (15 U.S.C. 713a–14) is repealed.

16 (b) CONFORMING AMENDMENTS.—Section 902(2) of  
17 the Trade Sanctions Reform and Export Enhancement  
18 Act of 2000 (22 U.S.C. 7201(2)) is amended—

19 (1) by striking subparagraph (D); and

20 (2) by redesignating subparagraphs (E) and  
21 (F) as subparagraphs (D) and (E), respectively.

22 **SEC. 383. EXTENSION OF DAIRY FORWARD PRICING PRO-**  
23 **GRAM.**

24 Section 1502(e) of the Food, Conservation, and En-  
25 ergy Act of 2008 (7 U.S.C. 8772(e)) is amended—

1 (1) in paragraph (1), by striking “2012” and  
2 inserting “2017”; and

3 (2) in paragraph (2), by striking “2015” and  
4 inserting “2020”.

5 **SEC. 384. EXTENSION OF DAIRY INDEMNITY PROGRAM.**

6 Section 3 of Public Law 90–484 (7 U.S.C. 450l) is  
7 amended by striking “2012” and inserting “2017”.

8 **SEC. 385. EXTENSION OF DAIRY PROMOTION AND RE-**  
9 **SEARCH PROGRAM.**

10 Section 113(e)(2) of the Dairy Production Stabiliza-  
11 tion Act of 1983 (7 U.S.C. 4504(e)(2)) is amended by  
12 striking “2012” and inserting “2017”.

13 **SEC. 386. REPEAL OF FEDERAL MILK MARKETING ORDER**  
14 **REVIEW COMMISSION.**

15 Section 1509 of the Food, Conservation, and Energy  
16 Act of 2008 (Public Law 110–246; 122 Stat. 1726) is re-  
17 pealed.

18 **Subtitle C—Effective Date**

19 **SEC. 391. EFFECTIVE DATE.**

20 This title and the amendments made by this title  
21 shall take effect as of January 1, 2013.