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

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.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as

“_________ Act of 2013”.

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(b) TABLE OF CONTENTS.—The table of contents of 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 payments.
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.

TITLE I—AGRICULTURAL
PROGRAMS EXTENSION

SEC. 101. ONE-YEAR EXTENSION OF AGRICULTURAL PRO-
GRAMS.

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

(1) September 30, 2013; and

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

(b) COMMODITY PROGRAMS.—

(1) IN GENERAL.—The terms and conditions
applicable to a covered commodity or loan com-
modity (as those terms are defined in section 1001
of the Food, Conservation, and Energy Act of 2008
(7 U.S.C. 8702)) or to peanuts, sugarcane, or sugar beets for the 2012 crop year pursuant to title I of such Act and each amendment made by that title shall be applicable to the 2013 crop year for that covered commodity, loan commodity, peanuts, sugarcane, or sugar beets.

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

(3) COTTON.—The authority provided by the following provisions of title I of the Food, Conservation, and Energy Act of 2008 shall continue through July 31, 2014:

(A) Section 1204(e)(2)(B) (7 U.S.C. 8734(e)(2)(B)) relating to adjustment authority regarding prevailing world market price.
(B) Section 1207(a) (7 U.S.C. 8737(a)) relating to import quota program.

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

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

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

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

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

(d) CONSERVATION PROGRAMS.—

(1) VOLUNTARY PUBLIC ACCESS PROGRAM.—Section 1240R(f) of the Food Security Act of 1985
(16 U.S.C. 3839bb–5(f)) is amended by inserting before the period at the end the following: “and $10,000,000 for fiscal year 2013”.

(2) SMALL WATERSHED REHABILITATION PROGRAM.—Section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)) is amended—

(A) by striking “and” at the end of subparagraph (E);

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

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

(D) by adding at the end the following:

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

(3) DESERT TERMINAL LAKES PROGRAM.—Section 2507(a) of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171) is amended by striking “on the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary of Agriculture shall transfer $175,000,000” and inserting “for fiscal year 2013, the Secretary of Agriculture shall transfer $35,000,000”.
(c) VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT GRANTS.—Section 231(b)(7)(A) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1632a(b)(7)(A)) is amended—

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

“(i) INITIAL FUNDING.—On October”;

and

(2) by adding at the end the following:

“(ii) FISCAL YEAR 2013.—For Fiscal Year 2013, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection $3,000,000, to remain available until expended.”.

(f) ENERGY PROGRAMS.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended—

(1) in section 9003(h)(1)—

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

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

(C) by adding at the end the following:

“(C) $80,000,000 for fiscal year 2013.”;
(2) in section 9005(g)(1)—
   (A) by striking “and” at the end of sub-
   paragraph (C);
   (B) by striking the period at the end of
   subparagraph (D) and inserting “; and”; and
   (C) by adding at the end the following:
   “(E) $55,000,000 for fiscal year 2013.”;
(3) in section 9007(g)(1)—
   (A) by striking “and” at the end of sub-
   paragraph (C);
   (B) by striking the period at the end of
   subparagraph (D) and inserting “; and”; and
   (C) by adding at the end the following:
   “(E) $51,000,000 for fiscal year 2013.”;
(4) in section 9008(h)(1)—
   (A) by striking “and” at the end of sub-
   paragraph (C);
   (B) by striking the period at the end of
   subparagraph (D) and inserting “; and”; and
   (C) by adding at the end the following:
   “(E) $33,600,000 for fiscal year 2013.”;
(5) in section 9010(b)(1)(A), by striking “2012
   crops” and inserting “2013 crops”; and
(6) in section 9011(f), by inserting before the
   period at the end the following: “and $38,600,000
for fiscal year 2013, to remain available until ex-

pended. In the case of a multiyear contract, the Sec-

retary shall ensure that sufficient funds are obli-

gated from the amounts made available by this sub-

section to fully cover all payments required by the

contract for all years of the contract”.

(g) **Organic Agriculture.**—

(1) **Organic Production and Market Data**

Initiatives.—Section 7407(d)(1) of the Farm Se-

curity and Rural Investment Act of 2002 (7 U.S.C.

5925c(d)(1)) is amended by striking “$5,000,000”

and inserting “$1,000,000 for fiscal year 2013”.

(2) **National Organic Certification Cost-**

share Program.—Section 10606(a) of the Farm

Security and Rural Investment Act of 2002 (7

U.S.C. 6523(a)) is amended by inserting “and

$5,000,000 for fiscal year 2013” after “fiscal year

2008”.

(h) **Exceptions.**—

(1) In General.—Subsection (a) does not

apply with respect to the provisions of law amended

by subsections (d) through (g).

(2) Conservation.—Subsection (a) does not

apply with respect to the programs specified in para-

graphs (3)(B), (4), (6), and (7) of section 1241(a)
of the Food Security Act of 1985 (16 U.S.C. 3841(a)), relating to the conservation stewardship program, farmland protection program, environmental quality incentives program, and wildlife habitat incentives program, for which program authority was extended through fiscal year 2014 by section 716 of Public Law 112–55 (125 Stat. 582).

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

(A) Section 3206 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 1726c) relating to the use of Commodity Credit Corporation funds to support local and regional food aid procurement projects.

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

(4) SURVEY OF FOODS PURCHASED BY SCHOOL FOOD AUTHORITIES.—Subsection (a) does not apply with respect to section 4307 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1893) relating to the use of Commodity
Credit Corporation funds for a survey and report regarding foods purchased by school food authorities.

(5) **Rural Development.**—Subsection (a) does not apply with respect to the following provisions of law:

(A) Section 6029 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1955) relating to funding of pending rural development loan and grant applications.

(B) Section 375(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)(B)) relating to the use of Commodity Credit Corporation funds for the National Sheep Industry Improvement Center.

(6) **Repowering Assistance Program.**—Subsection (a) does not apply with respect to section 9004(d)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8104(d)(1)) relating to the use of Commodity Credit Corporation funds to carry out the Repowering Assistance Program. Nothing in this paragraph shall be construed to prevent the Secretary of Agriculture from using funds previously made available under such section, and
not obligated as of the date of the enactment of this Act, in fiscal year 2013.

(7) Market loss assistance for asparagus producers.—Subsection (a) does not apply with respect to section 10404(d) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2112).

(8) Supplemental agricultural disaster assistance.—Subsection (a) does not apply with respect to section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) and title IX of the Trade Act of 1974 (19 U.S.C. 2497 et seq.) relating to the provision of supplemental agricultural disaster assistance.

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

(10) Heartland, habitat, harvest, and horticulture act of 2008.—Subsection (a) does not apply with respect to title XV of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2246), and amendments made by that title, relating to the provision of supple-
mental agricultural disaster assistance under title IX of the Trade Act of 1974 (19 U.S.C. 2497 et seq.), certain revenue and tax provisions, and certain trade benefits and other matters.

(i) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect as of September 30, 2012.

TITLE II—AGRICULTURAL DISASTER ASSISTANCE

SEC. 201. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PRODUCER ON A FARM.—

(A) IN GENERAL.—The term “eligible producer on a farm” means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.

(B) DESCRIPTION.—An individual or entity referred to in subparagraph (A) is—

(i) a citizen of the United States;

(ii) a resident alien;

(iii) a partnership of citizens of the United States; or
(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

(2) Farm-raised fish.—The term “farm-raised fish” means any aquatic species that is propagated and reared in a controlled environment.

(3) Livestock.—The term “livestock” includes—

(A) cattle (including dairy cattle);

(B) bison;

(C) poultry;

(D) sheep;

(E) swine;

(F) horses; and

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

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

(b) Livestock Indemnity Payments.—

(1) Payments.—The Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the
normal mortality, as determined by the Secretary, due to—

(A) attacks by animals reintroduced into the wild by the Federal Government or protected by Federal law, including wolves and avian predators; or

(B) adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

(2) Payment Rates.—Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

(3) Special Rule for Payments Made Due to Disease.—The Secretary shall ensure that payments made to an eligible producer under paragraph (1) are not made for the same livestock losses for which compensation is provided pursuant to section 10407(d) of the Animal Health Protection Act (7 U.S.C. 8306(d)).

(c) Livestock Forage Disaster Program.—

(1) Definitions.—In this subsection:
(A) COVERED LIVESTOCK.—

(i) IN GENERAL.—Except as provided in clause (ii), the term “covered livestock” means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

(I) owned;

(II) leased;

(III) purchased;

(IV) entered into a contract to purchase;

(V) is a contract grower; or

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

(aa) the current production year; or

(bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.
(ii) EXCLUSION.—The term “covered livestock” does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

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

(C) ELIGIBLE LIVESTOCK PRODUCER.—

(i) IN GENERAL.—The term “eligible livestock producer” means an eligible producer on a farm that—

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

(II) provides the pastureland or grazing land for covered livestock, in-
excluding cash-leased pastureland or grazing land that is physically located in a county affected by drought;

(III) certifies grazing loss; and

(IV) meets all other eligibility requirements established under this subsection.

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

(D) NORMAL CARRYING CAPACITY.—The term “normal carrying capacity”, with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

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

(2) PROGRAM.—The Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

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

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

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

(A) ELIGIBLE LOSSES.—

(i) IN GENERAL.—An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

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

(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.
(ii) EXCLUSIONS.—An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(B) MONTHLY PAYMENT RATE.—

(i) IN GENERAL.—Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

(ii) PARTIAL COMPENSATION.—In the case of an eligible livestock producer that
sold or otherwise disposed of covered live-
stock due to drought conditions in 1 or 
both of the 2 production years immediately 
preceding the current production year, as 
determined by the Secretary, the payment 
rate shall be 80 percent of the payment 
rate otherwise calculated in accordance 
with clause (i).

(C) MONTHLY FEED COST.—

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

(I) 30 days; 

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

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

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

(I) in the case of an adult beef 
cow, 15.7 pounds of corn per day; or
(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

(iii) Corn price per pound.—For purposes of clause (i)(III), the corn price per pound shall equal the quotient obtained by dividing—

(I) the higher of—

(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

(II) 56.

(D) Normal grazing period and drought monitor intensity.—
(i) FSA county committee determinations.—

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

(II) CHANGES.—No change to the normal carrying capacity or normal grazing period established for a county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

(ii) DROUGHT INTENSITY.—

(I) D2.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as de-
terminated by the Secretary, shall be el-
igible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under sub-
paragraph (B).

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

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

(bb) if the county is rated as having a D3 (extreme drought)
intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period, in an amount equal to 3 monthly payments using the monthly payment rate determined under subparagraph (B).

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

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

(i) the grazing losses occur on rangeland that is managed by a Federal agency; and

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

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

(C) PAYMENT DURATION.—
   (i) IN GENERAL.—Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—
   (I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and
   (II) ending on the last day of the Federal lease of the eligible livestock producer.

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

(5) NO DUPLICATIVE PAYMENTS.—An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph
(4), but not both for the same loss, as determined by the Secretary.

(d) Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish.—

(1) In general.—The Secretary shall use not more than $5,000,000 of the funds of the Commodity Credit Corporation to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease (including cattle tick fever), adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b) or (c). The Secretary also may use any of the funds previously made available for the purposes described in this paragraph, and not obligated as of the date of the enactment of this Act, for losses incurred in fiscal year 2012 or 2013.

(2) Use of funds.—Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

(3) Availability of funds.—Any funds made available under this subsection shall remain available until expended.
(c) TREE ASSISTANCE PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) ELIGIBLE ORCHARDIST.—The term “eligible orchardist” means a person that produces annual crops from trees for commercial purposes.

(B) NATURAL DISASTER.—The term “natural disaster” means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other occurrence, as determined by the Secretary.

(C) NURSERY TREE GROWER.—The term “nursery tree grower” means a person who produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale, as determined by the Secretary.

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

(2) ELIGIBILITY.—

(A) LOSS.—Subject to subparagraph (B), the Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide assistance—

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

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

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

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

(A)(i) reimbursement of 70 percent of the
cost of replanting trees lost due to a natural
disaster, as determined by the Secretary, in ex-
cess of 15 percent mortality (adjusted for nor-
mal mortality); or
(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

(B) reimbursement of 50 percent of the cost of pruning, removal, and other costs incurred by an eligible orchardist or nursery tree grower to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees as a result of damage or tree mortality due to a natural disaster, as determined by the Secretary, in excess of 15 percent damage or mortality (adjusted for normal tree damage and mortality).

(4) LIMITATIONS ON ASSISTANCE.—

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

(B) AMOUNT.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this subsection may not exceed $100,000 for any crop year, or an equivalent value in tree seedlings.
(C) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.

(f) PAYMENT LIMITATIONS.—

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

(2) AMOUNT.—The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section (excluding payments received under subsection (e)) may not exceed $100,000 for any crop year.

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

(4) DIRECT ATTRIBUTION.—Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions
relating to direct attribution shall apply with respect to assistance provided under this section.

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

(h) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this section shall be final and conclusive.

(i) REGULATIONS.—

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

(2) PROCEDURE.—The promulgation of the regulations and administration of this section shall be made without regard to—

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

(B) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”); and
(C) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking.

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 202. NONINSURED CROP ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—

“(A) COVERAGES.—In the case of an eligible crop described in paragraph (2), the Secretary of Agriculture shall operate a noninsured crop disaster assistance program to provide coverages based on individual yields (other than for value-loss crops) equivalent to—
“(i) catastrophic risk protection available under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)); or “(ii) additional coverage available under subsections (c) and (h) of section 508 of that Act (7 U.S.C. 1508) that does not exceed 65 percent.

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

(B) in paragraph (2)—

(i) in subparagraph (A)—

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

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

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

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

(ii) in subparagraph (B), by striking “(including ornamental fish)” and insert-
ing “(including ornamental fish, but excluding tropical fish)”;

(2) in subsection (d), by striking “The Secretary” and inserting “Subject to subsection (l), the Secretary”;

(3) in subsection (k)(1)—

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

(B) in subparagraph (B)—

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

(ii) by striking “$1,875” and inserting “$1,950”; and

(4) by adding at the end the following:

“(l) PAYMENT EQUIVALENT TO ADDITIONAL COVERAGE.—

“(1) IN GENERAL.—The Secretary shall make available to a producer eligible for noninsured assistance under this section a payment equivalent to an indemnity for additional coverage under subsections (c) and (h) of section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) that does not exceed 65 percent, computed by multiplying—

“(A) the quantity that is less than 50 to 65 percent of the established yield for the crop,
as determined by the Secretary, specified in increments of 5 percent;

“(B) 100 percent of the average market price for the crop, as determined by the Secretary; and

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

“(i) in the case of a crop that is produced with a significant and variable harvesting expense, the decreasing cost incurred in the production cycle for the crop that is, as applicable—

“(I) harvested;

“(II) planted but not harvested; or

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

“(ii) in the case of a crop that is produced without a significant and variable harvesting expense, such rate as shall be determined by the Secretary.

“(2) PREMIUM.—To be eligible to receive a payment under this subsection, a producer shall pay—
(A) the service fee required by subsection (k); and

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

(i) the product obtained by multiplying—

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

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

(III) the coverage level elected by the producer;

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

(ii) 5.25-percent premium fee.

(3) LIMITED RESOURCE, BEGINNING, AND SOCIOECONOMICALLY DISADVANTAGED FARMERS.—The additional coverage made available under this subsection shall be available to limited resource, beginning, and socially disadvantaged producers, as determined by the Secretary, in exchange for a premium that is 50 percent of the premium determined for a producer under paragraph (2).

(4) ADDITIONAL AVAILABILITY.—
“(A) IN GENERAL.—As soon as practicable, the Secretary shall make assistance available to producers of an otherwise eligible crop described in subsection (a)(2) that suffered losses—

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

“(ii) in a county covered by a declaration by the Secretary of a natural disaster for production losses due to a freeze or frost.

“(B) ASSISTANCE.—The Secretary shall make assistance available under subparagraph (A) in an amount equivalent to assistance available under paragraph (1), less any fees not previously paid under paragraph (2).”.

(b) TERMINATION OF AMENDMENTS.—

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

(2) ADMINISTRATION.—Effective October 1, 2017, section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) shall be applied and administered as if the amend-
ments made by subsection (a) (other than the amendment made by subsection (a)(1)(B)(ii)) had not been enacted.

**TITLE III—DAIRY**

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

**SEC. 301. DEFINITIONS.**

In this subtitle:

1. **Actual Dairy Producer Margin.**—The term “actual dairy producer margin” means the difference between the all-milk price and the average feed cost, as calculated under section 302.

2. **All-Milk Price.**—The term “all-milk price” means the average price received, per hundredweight of milk, by dairy producers for all milk sold to plants and dealers in the United States, as determined by the Secretary.

3. **Average Feed Cost.**—The term “average feed cost” means the average cost of feed used by a dairy operation to produce a hundredweight of milk, determined under section 302 using the sum of the following:

   (A) The product determined by multiplying 1.0728 by the price of corn per bushel.
(B) The product determined by multiplying 0.00735 by the price of soybean meal per ton.

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

(4) Basic Production History.—The term “basic production history” means the production history determined for a participating dairy producer under section 313(a) for provision of basic margin protection.

(5) Consecutive Two-Month Period.—The term “consecutive two-month period” refers to the two-month period consisting of the months of January and February, March and April, May and June, July and August, September and October, or November and December, respectively.

(6) Dairy Producer.—

(A) In General.—Subject to subparagraph (B), the term “dairy producer” means an individual or entity that directly or indirectly (as determined by the Secretary)—

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

(ii) makes contributions (including land, labor, management, equipment, or capital) to the dairy operation of the indi-
individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of the operation.

(B) ADDITIONAL OWNERSHIP STRUCTURES.—The Secretary shall determine additional ownership structures to be covered by the definition of dairy producer.

(7) HANDLER.—

(A) IN GENERAL.—The term “handler” means the initial individual or entity making payment to a dairy producer for milk produced in the United States and marketed for commercial use.

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

(8) MARGIN PROTECTION PROGRAM.—The term “margin protection program” means the dairy producer margin protection program required by part 1.

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

(A) signs up under section 312 to participate in the margin protection program under part 1; and
(B) as a result, also participates in the stabilization program under part 2.

(10) **STABILIZATION PROGRAM.**—The term “stabilization program” means the dairy market stabilization program required by part 2 for all participating dairy producers.

(11) **STABILIZATION PROGRAM BASE.**—The term “stabilization program base”, with respect to a participating dairy producer, means the stabilization program base calculated for the producer under section 331(b).

(12) **SUPPLEMENTAL PRODUCTION HISTORY.**—The term “supplemental production history” means the production history determined for a participating dairy producer under section 313(b) if the dairy producer purchases supplemental margin protection.

(13) **UNITED STATES.**—The term “United States”, in a geographical sense, means the 50 States, the District of Columbia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and any other territory or possession of the United States.
SEC. 302. CALCULATION OF AVERAGE FEED COST AND ACTUAL DAIRY PRODUCER MARGINS.

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

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

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

(3) The price of alfalfa hay for a month shall be the price received during that month by farmers in the United States for alfalfa hay, as reported in the monthly Agricultural Prices report by the Secretary.

(b) CALCULATION OF ACTUAL DAIRY PRODUCER MARGINS.—

(1) MARGIN PROTECTION PROGRAM.—For use in the margin protection program under part 1, the Secretary shall calculate the actual dairy producer margin for each consecutive two-month period by subtracting—
(A) the average feed cost for that consecutive two-month period, determined in accordance with subsection (a); from

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

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

(A) the average feed cost for that preceding month, determined in accordance with subsection (a); from

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

(3) TIME FOR CALCULATIONS.—The calculations required by paragraphs (1) and (2) shall be made as soon as practicable each month using the full month price of the applicable reference month, but in no case shall the calculation be made later than the last business day of the month.
PART 1—DAIRY PRODUCER MARGIN

PROTECTION PROGRAM

SEC. 311. ESTABLISHMENT OF DAIRY PRODUCER MARGIN PROTECTION PROGRAM.

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

(1) basic margin protection payments when actual dairy producer margins are less than the threshold levels for such payments; and

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

SEC. 312. PARTICIPATION OF DAIRY PRODUCERS IN MARGIN PROTECTION PROGRAM.

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

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

(2) if the dairy producer purchases supplemental margin protection under section 315, supplemental margin protection payments under such section.

(b) SIGN-UP PROCESS.—
(1) IN GENERAL.—The Secretary shall allow all interested dairy producers to sign up to participate in the margin protection program. The Secretary shall specify the manner and form by which a dairy producer must sign up to participate in the margin protection program.

(2) TREATMENT OF MULTI-PRODUCER OPERATIONS.—If a dairy operation consists of more than one dairy producer, all of the dairy producers of the operation shall be treated as a single dairy producer for purposes of—

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

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

(C) participation in the stabilization program under part 2.

(3) TREATMENT OF PRODUCERS WITH MULTIPLE DAIRY OPERATIONS.—If a dairy producer operates two or more dairy operations, each dairy operation of the producer shall require a separate registration to receive basic margin protection and purchase supplemental margin protection. Only those
dairy operations so registered shall be subject to the stabilization program.

(c) Time for Sign up of Existing Dairy Producers.—During the 90-day period beginning on the date of the initiation of the sign-up period for the margin protection program, a dairy producer that is actively engaged in a dairy operation as of such date may sign up with the Secretary—

(1) to receive basic margin protection; and

(2) if the producer elects, to purchase supplemental margin protection.

(d) Retroactivity Provision.—

(1) Notice of availability of retroactive protection.—Not later than 30 days after the effective date of this Act, the Secretary shall publish a notice in the Federal Register to inform dairy producers of the availability of retroactive basic margin protection and retroactive supplemental margin protection, subject to the condition that interested producers must file a notice of intent (in such form and manner as the Secretary specifies in the Federal Register notice)—

(A) to participate in the margin protection program and receive basic margin protection; and
(B) at the election of the producer under paragraph (3), to also obtain supplemental margin protection.

(2) RETROACTIVE BASIC MARGIN PROTECTION.—

(A) AVAILABILITY.—If a dairy producer files a notice of intent under paragraph (1) to participate in the margin protection program before the initiation of the sign-up period for the margin protection program and subsequently signs up for the margin protection program, the producer shall receive basic margin protection retroactive to the effective date of this title.

(B) DURATION.—Retroactive basic margin protection under this paragraph for a dairy producer shall apply from the effective date of this title until the date on which the producer signs up for the margin protection program.

(3) RETROACTIVE SUPPLEMENTAL MARGIN PROTECTION.—

(A) AVAILABILITY.—Subject to subparagraphs (B) and (C), if a dairy producer files a notice of intent under paragraph (1) to participate in the margin protection program and ob-
tain supplemental margin protection and subsequently signs up for the margin protection program, the producer shall receive supplemental margin protection, in addition to the basic margin protection under paragraph (2), retroactive to the effective date of this title.

(B) DEADLINE FOR SUBMISSION.—A notice of intent to obtain retroactive supplemental margin protection must be filed with the Secretary no later than the earlier of the following:

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

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

(C) ELECTION OF COVERAGE LEVEL AND PERCENTAGE OF COVERAGE.—To be sufficient to obtain retroactive supplemental margin protection, the notice of intent to participate filed by a dairy producer must specify—

(i) a selected coverage level that is higher, in any increment of $0.50, than the payment threshold for basic margin protec-
tion specified in section 314(b), but not to exceed $6.00; and

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

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

(i) October 1, 2013.

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

(4) NOTICE OF INTENT AND OBLIGATION TO PARTICIPATE IN MARGIN PROTECTION PROGRAM.—In no way does filing a notice of intent under this subsection obligate a dairy producer to sign up for the margin protection program once the program rules are final, but if a producer does file a notice of intent and subsequently signs up for the margin protection program, that dairy producer is obligated to pay fees and premiums for any retroactive basic margin protection or retroactive supplemental margin protection selected in the notice of intent.

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

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

<table>
<thead>
<tr>
<th>Pounds Marketed (in millions)</th>
<th>Admin. Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 1</td>
<td>$100</td>
</tr>
<tr>
<td>1 to 10</td>
<td>$250</td>
</tr>
<tr>
<td>more than 10 to 40</td>
<td>$500</td>
</tr>
<tr>
<td>more than 40</td>
<td>$1000</td>
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</tbody>
</table>

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

(4) **USE OF FEES.**—The Secretary shall use administrative fees collected under this subsection—
(A) to cover administrative costs of the margin protection program and stabilization program; and

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

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

(1) receiving basic margin protection;

(2) purchasing supplemental margin protection;

or

(3) avoiding participation in the stabilization program.

(g) PRIORITY CONSIDERATION.—A dairy operation that participates in the margin protection program shall be eligible to participate in the livestock gross margin for dairy program under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) only after operations that are not participating in the production margin protection program are enrolled.
SEC. 313. PRODUCTION HISTORY OF PARTICIPATING DAIRY PRODUCERS.

(a) Production History for Basic Margin Protection.—

(1) Determination Required.—For purposes of providing basic margin protection, the Secretary shall determine the basic production history of the dairy operation of each participating dairy producer in the margin protection program.

(2) Calculation.—Except as provided in paragraph (3), the basic production history of a participating dairy producer for basic margin protection is equal to the highest annual milk marketings of the dairy producer during one of the preceding three calendar years.

(b) Supplemental Production History for Supplemental Margin Protection.—

(1) Determination Required.—For purposes of providing supplemental margin protection for a participating dairy producer that purchases supplemental margin protection under section 315, the Secretary shall determine the supplemental production history of the dairy operation of the dairy producer under paragraph (2).

(2) Calculation.—The supplemental production history of a participating dairy producer is
equal to the actual milk marketings of the dairy producer during the preceding calendar year.

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

(1) the basic production history of the dairy operation of the dairy producer under subsection (a); and

(2) the production history of the dairy operation of the dairy producer whenever the producer purchases supplemental margin protection under section 315.

(d) **TRANSFER OF PRODUCTION HISTORIES.**—

(1) **TRANSFER BY SALE OR LEASE.**—In promulgating the rules to initiate the margin protection program, the Secretary shall specify the conditions under which and the manner by which the production history of a dairy operation may be transferred by sale or lease.

(2) **COVERAGE LEVEL.**—

(A) **BASIC MARGIN PROTECTION.**—A purchaser or lessee to whom the Secretary transfers a basic production history under this subsection shall not obtain a different level of basic margin protection than the basic margin protec-
tion coverage held by the seller or lessor from whom the transfer was obtained.

(B) Supplemental margin protection.—A purchaser or lessee to whom the Secretary transfers the supplemental production history under this subsection shall not obtain a different level of supplemental margin protection coverage than the supplemental margin protection coverage in effect for the seller or lessor from whom the transfer was obtained for the calendar year in which the transfer was made.

(e) Movement and Transfer of Production History.—

(1) Movement and transfer authorized.—Subject to paragraph (2), if a dairy producer moves from one location to another location, the dairy producer may maintain the basic production history and supplemental production history associated with the operation.

(2) Notification requirement.—A dairy producer shall notify the Secretary of any move of a dairy operation under paragraph (1).

(3) Subsequent occupation of vacated location.—A party subsequently occupying a dairy
operation location vacated as described in paragraph (1) shall have no interest in the basic production history or supplemental production history previously associated with the operation at such location.

SEC. 314. BASIC MARGIN PROTECTION.

(a) Eligibility.—All participating dairy producers are eligible to receive basic margin protection under the margin protection program.

(b) Payment Threshold.—Participating dairy producers shall receive a basic margin protection payment whenever the average actual dairy producer margin for a consecutive two-month period is less than $4.00 per hundredweight of milk.

(c) Basic Margin Protection Payment.—

(1) Payment Required.—The Secretary shall make a basic margin protection payment to each participating dairy producer whenever such a payment is required by subsection (b).

(2) Amount of Payment.—The basic margin protection payment for the dairy operation of a participating dairy producer for a consecutive two-month period shall be determined as follows:

(A) The Secretary shall calculate the difference between the average actual dairy pro-
ducer margin for the consecutive two-month period and $4.00, except that, if the difference is more than $4.00, the Secretary shall use $4.00.

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

(i) 80 percent of the production history of the dairy producer, divided by six.

(ii) The actual amount of milk marketed by the dairy operation of the dairy producer during the consecutive two-month period.

SEC. 315. SUPPLEMENTAL MARGIN PROTECTION.

(a) Election of Supplemental Margin Protection.—A participating dairy producer may purchase supplemental margin protection to protect a higher level of the income of a participating dairy producer than the income level guaranteed by basic margin protection under section 314.

(b) Selection of Payment Threshold.—A participating dairy producer purchasing supplemental margin protection shall elect a coverage level that is higher, in any increment of $0.50, than the payment threshold for basic margin protection specified in section 314(b), but not to exceed $8.00.
(c) Selection of Coverage Percentage.—A participating dairy producer purchasing supplemental margin protection shall elect a percentage of coverage equal to not more than 90 percent, nor less than 25 percent, of the supplemental production history of the dairy operation of the participating dairy producer.

(d) Producer Premiums for Supplemental Margin Protection.—

(1) Premiums Required.—A participating dairy producer that purchases supplemental margin protection shall pay an annual premium equal to the product obtained by multiplying—

(A) the percentage selected by the dairy producer under subsection (e);

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

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

(2) Premium per Hundredweight for First 4 Million Pounds of Production.—For the first 4,000,000 pounds of milk marketings included in the supplemental production history of a participating dairy producer, the premium per hundred-
weight corresponding to each coverage level specified in the following table is as follows:

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<thead>
<tr>
<th>Coverage Level</th>
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<tbody>
<tr>
<td>$4.50</td>
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<tr>
<td>$5.00</td>
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<tr>
<td>$5.50</td>
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<tr>
<td>$6.00</td>
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<tr>
<td>$7.00</td>
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<tr>
<td>$7.50</td>
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<tr>
<td>$8.00</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Premium per Cwt.</th>
</tr>
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<tbody>
<tr>
<td>$0.01</td>
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<tr>
<td>$0.025</td>
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<tr>
<td>$0.04</td>
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<tr>
<td>$0.065</td>
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<tr>
<td>$0.09</td>
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<tr>
<td>$0.434</td>
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<tr>
<td>$0.590</td>
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<tr>
<td>$0.922</td>
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</tbody>
</table>

(3) PREMIUM PER HUNDREDWEIGHT FOR PRODUCTION IN EXCESS OF 4 MILLION POUNDS.—For milk marketings in excess of 4,000,000 pounds included in the supplemental production history of a participating dairy producer, the premium per hundredweight corresponding to each coverage level is as follows:

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<tr>
<th>Coverage Level</th>
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<tbody>
<tr>
<td>$4.50</td>
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<tr>
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<td>$7.00</td>
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<td>$8.00</td>
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<thead>
<tr>
<th>Premium per Cwt.</th>
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<tr>
<td>$0.015</td>
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<tr>
<td>$0.036</td>
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<tr>
<td>$0.081</td>
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<tr>
<td>$0.155</td>
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<td>$0.590</td>
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<td>$0.922</td>
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</table>

(4) TIME FOR PAYMENT.—In promulgating the rules to initiate the margin protection program, the Secretary shall provide more than one method by which a participating dairy producer that purchases supplemental margin protection for a calendar year
may pay the premium under this subsection that maximizes producer payment flexibility and program integrity.

(e) PRODUCER’S PREMIUM OBLIGATIONS.—A participating dairy producer that purchases supplemental margin protection shall be legally obligated to pay the applicable premium for such protection, except that, if the dairy producer retires, the producer may request that Secretary cancel the supplemental margin protection if the producer has terminated the dairy operation entirely and certifies under oath that the producer will not be actively engaged in any dairy operation for at least the next seven years.

(f) SUPPLEMENTAL PAYMENT THRESHOLD.—A participating dairy producer with supplemental margin protection shall receive a supplemental margin protection payment whenever the average actual dairy producer margin for a consecutive two-month period is less than the coverage level threshold selected by the dairy producer under subsection (b).

(g) SUPPLEMENTAL MARGIN PROTECTION PAYMENTS.—

(1) IN GENERAL.—The supplemental margin protection payment for a participating dairy pro-
ducer is in addition to the basic margin protection payment.

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

(A) The Secretary shall calculate the difference between the coverage level threshold selected by the dairy producer under subsection (b) and the greater of—

(i) the average actual dairy producer margin for the consecutive two-month period; or

(ii) $4.00.

(B) The amount determined under subparagraph (A) shall be multiplied by the percentage selected by the participating dairy producer under subsection (c) and by the lesser of the following:

(i) The supplemental production history of the dairy operation of the dairy producer, divided by six.

(ii) The actual amount of milk marketed by the dairy operation of the dairy
producer during the consecutive two-month period.

SEC. 316. EFFECT OF FAILURE TO PAY ADMINISTRATIVE FEES OR PREMIUMS.

(a) Loss of Benefits.—A participating dairy producer that fails to pay the required administrative fee under section 312 or is in arrears on premium payments for supplemental margin protection under section 315—

(1) remains legally obligated to pay the administrative fee or premiums, as the case may be; and

(2) may not receive basic margin protection payments or supplemental margin protection payments until the fees or premiums are fully paid.

(b) Enforcement.—The Secretary may take such action as necessary to collect administrative fees and premium payments for supplemental margin protection.

PART 2—DAIRY MARKET STABILIZATION PROGRAM

SEC. 331. ESTABLISHMENT OF DAIRY MARKET STABILIZATION PROGRAM.

(a) Program Required; Purpose.—The Secretary shall establish and administer a dairy market stabilization program applicable to participating dairy producers for the purpose of assisting in balancing the supply of milk
with demand when dairy producers are experiencing low or negative operating margins.

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

(1) **ELECTION.**—When a dairy producer signs up under section 312 to participate in the margin protection program, the dairy producer shall inform the Secretary of the method by which the stabilization program base for the dairy producer for fiscal year 2013 will be calculated under paragraph (3).

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

(A) The volume of the average monthly milk marketings of the dairy producer for the three months immediately preceding the announcement by the Secretary that the stabilization program will become effective.

(B) The volume of the monthly milk marketings of the dairy producer for the same month in the preceding year as the month for which the Secretary has announced the stabilization program will become effective.
SEC. 332. THRESHOLD FOR IMPLEMENTATION AND REDUCTION IN DAIRY PRODUCER PAYMENTS.

(a) When Stabilization Program Required.—Except as provided in subsection (b), the Secretary shall announce that the stabilization program is in effect and order reduced payments for any participating dairy producer that exceeds the applicable percentage of the producer’s stabilization program base whenever—

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

(2) the actual dairy producer margin has been $4.00 or less per hundredweight of milk for the immediately preceding month.

(b) Exception.—The Secretary shall not make the announcement under subsection (a) to implement the stabilization program or order reduced payments if any of the conditions described in section 336(b) have been met during the two months immediately preceding the month in which the announcement under subsection (a) would otherwise be made by the Secretary in the absence of this exception.

(c) Effective Date for Implementation of Payment Reductions.—Reductions in dairy producer payments shall commence beginning on the first day of
the month immediately following the date of the announce-
ment by the Secretary under subsection (a).

SEC. 333. PRODUCER MILK MARKETING INFORMATION.

(a) Collection of Milk Marketing Data.—The
Secretary shall establish, by regulation, a process to collect
from participating dairy producers and handlers such in-
formation that the Secretary considers necessary for each
month during which the stabilization program is in effect.

(b) Reduce Regulatory Burden.—When imple-
menting the process under subsection (a), the Secretary
shall minimize the regulatory burden on dairy producers
and handlers.

SEC. 334. CALCULATION AND COLLECTION OF REDUCED
DAIRY PRODUCER PAYMENTS.

(a) Reduced Producer Payments Required.—
During any month in which payment reductions are in ef-
fect under the stabilization program, each handler shall
reduce payments to each participating dairy producer
from whom the handler receives milk.

(b) Reductions Based on Actual Dairy Pro-
ducer Margin.—

(1) Reduction Requirement 1.—Unless the
reduction required by paragraph (2) or (3) applies,
when the actual dairy producer margin has been
$6.00 or less per hundredweight of milk for two con-
secutive months, the handler shall make payments to
a participating dairy producer for a month based on
the greater of the following:

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

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

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

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

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

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

(A) 96 percent of the stabilization program
base of the dairy producer.
(B) 92 percent of the marketings of milk for the month by the producer.

(c) Continuation of Reductions.—The largest level of payment reduction required under paragraph (1), (2), or (3) of subsection (b) shall be continued for each month until the Secretary suspends the stabilization program and terminates payment reductions in accordance with section 336.

(d) Payment Reduction Exception.—Notwithstanding any preceding subsection of this section, a handler shall make no payment reductions for a dairy producer for a month if the producer’s milk marketings for the month are equal to or less than the percentage of the stabilization program base applicable to the producer under paragraph (1), (2), or (3) of subsection (b).

SEC. 335. REMITTING MONIES TO THE SECRETARY AND USE OF MONIES.

(a) Remitting Monies.—As soon as practicable after the end of each month during which payment reductions are in effect under the stabilization program, each handler shall remit to the Secretary an amount equal to the amount by which payments to participating dairy producers are reduced by the handler under section 334.

(b) Deposit of Monies.—All monies received under subsection (a) shall be available to the Secretary, without
further appropriation and until expended, for use or transfer as provided in subsection (e).

(c) Use of monies.—

(1) Availability for certain commodity donations.—Within three months of the receipt of monies under subsection (a), the Secretary shall obligate the monies for the purpose of—

(A) purchasing dairy products for donation to food banks and other programs that the Secretary determines appropriate; and

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

(2) No duplication of effort.—The Secretary shall ensure that expenditures under paragraph (1) are compatible with, and do not duplicate, programs supported by the dairy research and promotion activities conducted under the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 et seq.).

(3) Accounting.—The Secretary shall keep an accurate account of all monies obligated under paragraph (1).

(d) Enforcement.—If a participating dairy producer or handler fails to remit or collect the amounts by which payments to participating dairy producers are re-
duced under section 334, the producer or handler responsible for the failure shall be liable to the Secretary for the amount that should have been remitted or collected, plus interest. In addition to the enforcement authorities available under section 337, the Secretary may enforce this subsection in the courts of the United States.

SEC. 336. SUSPENSION OF REDUCED PAYMENT REQUIREMENT.

(a) Determination of Prices.—For purposes of this section:

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

(2) The Oceania price of cheddar cheese and skim milk powder shall be determined by the Secretary using the average prices in Oceania of cheddar cheese and skim milk powder for the reference month in Oceania, as reported in the International Dairy Market News report by the Secretary.

(b) Initial Suspension Thresholds.—The Secretary shall announce that the stabilization program shall be suspended whenever the Secretary determines that—

(1) the actual dairy producer margin is greater than $6.00 per hundredweight of milk for two consecutive months;
(2) the dairy producer margin is equal to or less than $6.00 (but greater than $5.00) for two consecutive months, and during the same two consecutive months—

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

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

(3) the dairy producer margin is equal to or less than $5.00 (but greater than $4.00) for two consecutive months, and during the same two consecutive months—

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

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

(4) the dairy producer margin is equal to or less than $4.00 for two consecutive months, and during the same two consecutive months—
(A) the price in the United States for cheddar cheese is more than 7 percent above the Oceania price of cheddar cheese; or

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

(c) Enhanced Suspension Thresholds.—If the stabilization program is not suspended pursuant to subsection (b) for six consecutive months or more, the stabilization program shall be suspended whenever the Secretary determines that—

(1) the actual dairy producer margin is greater than $6.00 per hundredweight of milk for two consecutive months;

(2) the dairy producer margin is equal to or less than $6.00 (but greater than $5.00) for two consecutive months, and during the same two consecutive months—

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

(B) the price in the United States for non-fat dry milk is not less than 97 percent of the Oceania price of skim milk powder;
(3) the dairy producer margin is equal to or less than $5.00 (but greater than $4.00) for two consecutive months, and during the same two consecutive months—

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

(B) the price in the United States for nonfat dry milk is more than 3 percent above the Oceania price of skim milk powder; or

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

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

(B) the price in the United States for nonfat dry milk is more than 6 percent above the Oceania price of skim milk powder.

(d) IMPLEMENTATION BY HANDLERS.—Effective on the day after the date of the announcement by the Secretary under subsection (b) or (c) of the suspension of the stabilization program, the handler shall cease reducing payments to participating dairy producers under the stabilization program.
(e) Condition on Resumption of Stabilization Program.—Upon the announcement by the Secretary under subsection (b) or (c) that the stabilization program has been suspended, the stabilization program may not be implemented again until, at the earliest—

(1) two months have passed, beginning on the first day of the month immediately following the announcement by the Secretary; and

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

SEC. 337. ENFORCEMENT.

(a) Unlawful Act.—It shall be unlawful and a violation of this part for any person subject to the stabilization program to willfully fail or refuse to provide, or delay the timely reporting of, accurate information and remittance of funds to the Secretary in accordance with this subpart.

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

(c) Appeal.—An order of the Secretary under subsection (b) shall be final and conclusive unless an affected person files an appeal of the order of the Secretary in United States district court not later than 30 days after
the date of the issuance of the order. A finding of the
Secretary in the order shall be set aside only if the finding
is not supported by substantial evidence.

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

SEC. 338. AUDIT REQUIREMENTS.

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

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

(2) SAMPLE OF DAIRY PRODUCERS.—Any audit
conducted under this subsection shall include, at a
minimum, investigation of a statistically valid and
random sample of participating dairy producers.

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

PART 3—COMMODITY CREDIT CORPORATION

SEC. 351. USE OF COMMODITY CREDIT CORPORATION.

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

PART 4—INITIATION AND DURATION

SEC. 361. RULEMAKING.

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

(b) PROCEDURE.—The promulgation of rules under
subsection (a) for the initiation of the margin protection
program and the stabilization program, and for adminis-
stimulation of such programs, shall be made without regard to—

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

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

(3) the notice and comment provisions of section 553 of title 5, United States Code.

c) Congressional Review of Agency Rulemaking.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

Sec. 362. Duration.

The margin protection program and the stabilization program shall end on December 31, 2013.
Subtitle B—Repeal or Reauthorization of Other Dairy-related Provisions

SEC. 381. REPEAL OF DAIRY PRODUCT PRICE SUPPORT AND MILK INCOME LOSS CONTRACT PROGRAMS.


(b) Repeal of Milk Income Loss Contract Program.—Section 1506 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8773) is repealed.

SEC. 382. REPEAL OF DAIRY EXPORT INCENTIVE PROGRAM.

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

(b) Conforming Amendments.—Section 902(2) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7201(2)) is amended—

(1) by striking subparagraph (D); and

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

SEC. 383. EXTENSION OF DAIRY FORWARD PRICING PROGRAM.

Section 1502(e) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8772(e)) is amended—
(1) in paragraph (1), by striking “2012” and inserting “2017”; and
(2) in paragraph (2), by striking “2015” and inserting “2020”.

SEC. 384. EXTENSION OF DAIRY INDEMNITY PROGRAM.

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

SEC. 385. EXTENSION OF DAIRY PROMOTION AND RESEARCH PROGRAM.

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

SEC. 386. REPEAL OF FEDERAL MILK MARKETING ORDER REVIEW COMMISSION.

Section 1509 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1726) is repealed.

Subtitle C—Effective Date

SEC. 391. EFFECTIVE DATE.

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