

**AMENDMENT TO FARM BILL EXTENSION BILL,
H.R. _____
OFFERED BY MR. WELCH OF VERMONT**

Strike section 1(b)(4).

Designate existing sections as title I and add at the end the following new title:

1 TITLE II—DAIRY

2 PART I—DAIRY PRODUCER MARGIN PROTECTION

3 AND DAIRY MARKET STABILIZATION PROGRAMS

4 SEC. 2401. DEFINITIONS.

5 In this part:

6 (1) **ACTUAL DAIRY PRODUCER MARGIN.**—The
7 term “actual dairy producer margin” means the dif-
8 ference between the all-milk price and the average
9 feed cost, as calculated under section 2402.

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

15 (3) **ANNUAL PRODUCTION HISTORY.**—The term
16 “annual production history” means the production

1 history determined for a participating dairy producer
2 under section 2413(b) whenever the dairy producer
3 purchases supplemental margin protection.

4 (4) AVERAGE FEED COST.—The term “average
5 feed cost” means the average cost of feed used by
6 a dairy operation to produce a hundredweight of
7 milk, determined under section 2402 using the sum
8 of the following:

9 (A) The product determined by multiplying
10 1.0728 by the price of corn per bushel.

11 (B) The product determined by multiplying
12 0.00735 by the price of soybean meal per ton.

13 (C) The product determined by multiplying
14 0.0137 by the price of alfalfa hay per ton.

15 (5) BASIC PRODUCTION HISTORY.—The term
16 “basic production history” means the production
17 history determined for a participating dairy producer
18 under section 2413(a) for provision of basic margin
19 protection.

20 (6) CONSECUTIVE TWO-MONTH PERIOD.—The
21 term “consecutive two-month period” refers to the
22 two-month period consisting of the months of Janu-
23 ary and February, March and April, May and June,
24 July and August, September and October, or No-
25 vember and December, respectively.

1 (7) DAIRY PRODUCER.—

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

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

8 (ii) makes contributions (including
9 land, labor, management, equipment, or
10 capital) to the dairy operation of the indi-
11 vidual or entity that are at least commen-
12 surate with the share of the individual or
13 entity of the proceeds of the operation.

14 (B) ADDITIONAL OWNERSHIP STRUC-
15 TURES.—The Secretary shall determine addi-
16 tional ownership structures to be covered by the
17 definition of dairy producer.

18 (8) HANDLER.—

19 (A) IN GENERAL.—The term “handler”
20 means the initial individual or entity making
21 payment to a dairy producer for milk produced
22 in the United States and marketed for commer-
23 cial use.

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

4 (9) MARGIN PROTECTION PROGRAM.—The term
5 “margin protection program” means the dairy pro-
6 ducer margin protection program required by sub-
7 part A.

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

11 (A) signs up under section 2412 to partici-
12 pate in the margin protection program under
13 subpart A; and

14 (B) as a result, also participates in the sta-
15 bilization program under subpart B.

16 (11) STABILIZATION PROGRAM.—The term
17 “stabilization program” means the dairy market sta-
18 bilization program required by subpart B for all par-
19 ticipating dairy producers.

20 (12) STABILIZATION PROGRAM BASE.—The
21 term “stabilization program base”, with respect to a
22 participating dairy producer, means the stabilization
23 program base calculated for the producer under sec-
24 tion 2431(b).

1 (13) UNITED STATES.—The term “United
2 States”, in a geographical sense, means the 50
3 States, the District of Columbia, American Samoa,
4 Guam, the Commonwealth of the Northern Mariana
5 Islands, the Commonwealth of Puerto Rico, the Vir-
6 gin Islands of the United States, and any other ter-
7 ritory or possession of the United States.

8 **SEC. 2402. CALCULATION OF AVERAGE FEED COST AND AC-**
9 **TUAL DAIRY PRODUCER MARGINS.**

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

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

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

21 (3) The price of alfalfa hay for a month shall
22 be the price received during that month by farmers
23 in the United States for alfalfa hay, as reported in
24 the monthly Agricultural Prices report by the Sec-
25 retary.

1 (b) CALCULATION OF ACTUAL DAIRY PRODUCER
2 MARGINS.—

3 (1) MARGIN PROTECTION PROGRAM.—For use
4 in the margin protection program under subpart A,
5 the Secretary shall calculate the actual dairy pro-
6 ducer margin for each consecutive two-month period
7 by subtracting—

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

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

13 (2) STABILIZATION PROGRAM.—For use in the
14 stabilization program under subpart B, the Sec-
15 retary shall calculate each month the actual dairy
16 producer margin for the preceding month by sub-
17 tracting—

18 (A) the average feed cost for that pre-
19 ceding month, determined in accordance with
20 subsection (a); from

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

23 (3) TIME FOR CALCULATIONS.—The calcula-
24 tions required by paragraphs (1) and (2) shall be
25 made as soon as practicable each month using the

1 full month price of the applicable reference month,
2 but in no case shall the calculation be made later
3 than the last business day of the month.

4 **Subpart A—Dairy Producer Margin Protection**
5 **Program**

6 **SEC. 2411. ESTABLISHMENT OF DAIRY PRODUCER MARGIN**
7 **PROTECTION PROGRAM.**

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

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

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

17 **SEC. 2412. PARTICIPATION OF DAIRY PRODUCERS IN MAR-**
18 **GIN PROTECTION PROGRAM.**

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

23 (1) basic margin protection payments under
24 section 2414; and

1 (2) if the dairy producer purchases supple-
2 mental margin protection under section 2415, sup-
3 plemental margin protection payments under such
4 section.

5 (b) SIGN-UP PROCESS.—

6 (1) IN GENERAL.—The Secretary shall allow all
7 interested dairy producers to sign up to participate
8 in the margin protection program. The Secretary
9 shall specify the manner and form by which a dairy
10 producer must sign up to participate in the margin
11 protection program.

12 (2) TREATMENT OF MULTI-PRODUCER OPER-
13 ATIONS.—If a dairy operation consists of more than
14 one dairy producer, all of the dairy producers of the
15 operation shall be treated as a single dairy producer
16 for purposes of—

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

20 (B) payment of the administrative fee
21 under subsection (e) and producer premiums
22 under section 2415; and

23 (C) participation in the stabilization pro-
24 gram under subpart B.

1 (3) TREATMENT OF PRODUCERS WITH MUL-
2 TIPLE DAIRY OPERATIONS.—If a dairy producer op-
3 erates two or more dairy operations, each dairy op-
4 eration of the producer shall require a separate reg-
5 istration to receive basic margin protection and pur-
6 chase supplemental margin protection. Only those
7 dairy operations so registered shall be subject to the
8 stabilization program.

9 (c) TIME FOR SIGN UP.—

10 (1) EXISTING DAIRY PRODUCERS.—During the
11 one-year period beginning on the date of the initi-
12 ation of the sign-up period for the margin protection
13 program, a dairy producer that is actively engaged
14 in a dairy operation as of such date may sign up
15 with the Secretary—

16 (A) to receive basic margin protection; and

17 (B) if the producer elects, to purchase sup-
18 plemental margin protection.

19 (2) NEW ENTRANTS.—A dairy producer that
20 has no existing interest in a dairy operation as of
21 the date of the initiation of the sign-up period for
22 the margin protection program, but that, after such
23 date, establishes a new dairy operation, may sign up
24 with the Secretary during the one year period begin-

1 ning on the date on which the dairy operation first
2 markets milk commercially—

3 (A) to receive basic margin protection; and

4 (B) if the producer elects, to purchase sup-
5 plemental margin protection.

6 (d) RETROACTIVITY PROVISION.—

7 (1) NOTICE OF AVAILABILITY OF RETROACTIVE
8 PROTECTION.—Not later than 30 days after the ef-
9 fective date of this subtitle, the Secretary shall pub-
10 lish a notice in the Federal Register to inform dairy
11 producers of the availability of retroactive basic mar-
12 gin protection and retroactive supplemental margin
13 protection, subject to the condition that interested
14 producers must file a notice of intent (in such form
15 and manner as the Secretary specifies in the Federal
16 Register notice)—

17 (A) to participate in the margin protection
18 program and receive basic margin protection;
19 and

20 (B) at the election of the producer under
21 paragraph (3), to also obtain supplemental
22 margin protection.

23 (2) RETROACTIVE BASIC MARGIN PROTEC-
24 TION.—

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

10 (B) DURATION.—Retroactive basic margin
11 protection under this paragraph for a dairy pro-
12 ducer shall apply from the effective date of this
13 subtitle until the date on which the producer
14 signs up for the margin protection program.

15 (3) RETROACTIVE SUPPLEMENTAL MARGIN
16 PROTECTION.—

17 (A) AVAILABILITY.—Subject to subpara-
18 graphs (B) and (C), if a dairy producer files a
19 notice of intent under paragraph (1) to partici-
20 pate in the margin protection program and ob-
21 tain supplemental margin protection and subse-
22 quently signs up for the margin protection pro-
23 gram, the producer shall receive supplemental
24 margin protection, in addition to the basic mar-

1 gin protection under paragraph (2), retroactive
2 to the effective date of this subtitle.

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

7 (i) 150 days after the date on which
8 the Secretary publishes the notice in the
9 Federal Register required by paragraph
10 (1).

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

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

19 (i) a selected coverage level that is
20 higher, in any increment of \$0.50, than the
21 payment threshold for basic margin protec-
22 tion specified in section 2414(b), but not
23 to exceed \$6.00; and

24 (ii) the percentage of coverage, subject
25 to limits imposed in section 2415(c).

1 (D) DURATION.—The coverage level and
2 percentage specified in the notice of intent to
3 participate filed by a dairy producer shall apply
4 from the effective date of this subtitle until the
5 later of the following:

6 (i) October 1, 2013.

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

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

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

21 (e) ADMINISTRATIVE FEE.—

22 (1) ADMINISTRATIVE FEE REQUIRED.—A dairy
23 producer shall pay an administrative fee under this
24 subsection to sign up to participate in the margin
25 protection program. The participating dairy pro-

1 ducer shall pay the administrative fee annually
2 thereafter to continue to participate in the margin
3 protection program.

4 (2) FEE AMOUNT.—The administrative fee for
5 a participating dairy producer for a calendar year is
6 based on the pounds of milk (in millions) marketed
7 by the dairy producer in the previous calendar year,
8 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

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

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

19 (A) to cover administrative costs of the
20 margin protection program and stabilization
21 program; and

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

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

10 (1) receiving basic margin protection;

11 (2) purchasing supplemental margin protection;

12 or

13 (3) avoiding participation in the stabilization
14 program.

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

22 **SEC. 2413. PRODUCTION HISTORY OF PARTICIPATING**
23 **DAIRY PRODUCERS.**

24 (a) PRODUCTION HISTORY FOR BASIC MARGIN PRO-
25 TECTION.—

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

6 (2) CALCULATION.—Except as provided in
7 paragraph (3), the basic production history of a par-
8 ticipating dairy producer for basic margin protection
9 is equal to the highest annual milk marketings of
10 the dairy producer during any one of the three cal-
11 endar years immediately preceding the calendar year
12 in which the dairy producer first signed up to par-
13 ticipate in the margin protection program.

14 (3) ELECTION BY NEW PRODUCERS.—If a par-
15 ticipating dairy producer has been in operation for
16 less than a year, the dairy producer shall elect one
17 of the following methods for the Secretary to deter-
18 mine the basic production history of the dairy pro-
19 ducer:

20 (A) The volume of the actual milk mar-
21 ketings for the months the dairy producer has
22 been in operation extrapolated to a yearly
23 amount.

24 (B) An estimate of the actual milk mar-
25 ketings of the dairy producer based on the herd

1 size of the producer relative to the national roll-
2 ing herd average data published by the Sec-
3 retary.

4 (4) NO CHANGE IN PRODUCTION HISTORY FOR
5 BASIC MARGIN PROTECTION.—Once the basic pro-
6 duction history of a participating dairy producer is
7 determined under paragraph (2) or (3), the basic
8 production history shall not be subsequently changed
9 for purposes of determining the amount of any basic
10 margin protection payments for the dairy producer
11 made under section 2414.

12 (b) ANNUAL PRODUCTION HISTORY FOR SUPPLE-
13 MENTAL MARGIN PROTECTION.—

14 (1) DETERMINATION REQUIRED.—For purposes
15 of providing supplemental margin protection for a
16 participating dairy producer that purchases supple-
17 mental margin protection for a year under section
18 2415, the Secretary shall determine the annual pro-
19 duction history of the dairy operation of the dairy
20 producer under paragraph (2).

21 (2) CALCULATION.—The annual production his-
22 tory of a participating dairy producer for a year is
23 equal to the actual milk marketings of the dairy pro-
24 ducer during the preceding calendar year.

1 (3) NEW PRODUCERS.—Subsection (a)(3) shall
2 apply with respect to determining the annual pro-
3 duction history of a participating dairy producer
4 that has been in operation for less than a year.

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

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

11 (2) the production history of the dairy oper-
12 ation of the dairy producer whenever the producer
13 purchases supplemental margin protection under
14 section 2415.

15 (d) TRANSFER OF PRODUCTION HISTORIES.—

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

22 (2) COVERAGE LEVEL.—

23 (A) BASIC MARGIN PROTECTION.—A pur-
24 chaser or lessee to whom the Secretary trans-
25 fers a basic production history under this sub-

1 section shall not obtain a different level of basic
2 margin protection than the basic margin protec-
3 tion coverage held by the seller or lessor from
4 whom the transfer was obtained.

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

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

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

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

1 (3) SUBSEQUENT OCCUPATION OF VACATED LO-
2 CATION.—A party subsequently occupying a dairy
3 operation location vacated as described in paragraph
4 (1) shall have no interest in the basic production
5 history or annual production history previously asso-
6 ciated with the operation at such location.

7 **SEC. 2414. BASIC MARGIN PROTECTION.**

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

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

16 (c) BASIC MARGIN PROTECTION PAYMENT.—

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

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

1 (A) The Secretary shall calculate the dif-
2 ference between the average actual dairy pro-
3 ducer margin for the consecutive two-month pe-
4 riod and \$4.00, except that, if the difference is
5 more than \$4.00, the Secretary shall use \$4.00.

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

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

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

15 **SEC. 2415. SUPPLEMENTAL MARGIN PROTECTION.**

16 (a) ELECTION OF SUPPLEMENTAL MARGIN PROTEC-
17 TION.—Supplemental margin protection is available only
18 on an annual basis. A participating dairy producer may
19 annually purchase supplemental margin protection to pro-
20 tect, during the calendar year for which purchased, a high-
21 er level of the income of a participating dairy producer
22 than the income level guaranteed by basic margin protec-
23 tion under section 2414.

24 (b) SELECTION OF PAYMENT THRESHOLD.—A par-
25 ticipating dairy producer purchasing supplemental margin

1 protection for a year shall elect a coverage level that is
2 higher, in any increment of \$0.50, than the payment
3 threshold for basic margin protection specified in section
4 2414(b), but not to exceed \$8.00.

5 (c) SELECTION OF COVERAGE PERCENTAGE.—A par-
6 ticipating dairy producer purchasing supplemental margin
7 protection for a year shall elect a percentage of coverage
8 equal to not more than 90 percent, nor less than 25 per-
9 cent, of the annual production history of the dairy oper-
10 ation of the participating dairy producer.

11 (d) PRODUCER PREMIUMS FOR SUPPLEMENTAL
12 MARGIN PROTECTION.—

13 (1) PREMIUMS REQUIRED.—A participating
14 dairy producer that purchases supplemental margin
15 protection shall pay an annual premium equal to the
16 product obtained by multiplying—

17 (A) the percentage selected by the dairy
18 producer under subsection (c);

19 (B) the annual production history of the
20 dairy producer; and

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

24 (2) PREMIUM PER HUNDREDWEIGHT FOR FIRST
25 4 MILLION POUNDS OF PRODUCTION.—For the first

1 4,000,000 pounds of milk marketings included in
 2 the annual production history of a participating
 3 dairy producer, the premium per hundredweight cor-
 4 responding to each coverage level specified in the fol-
 5 lowing 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

6 (3) PREMIUM PER HUNDREDWEIGHT FOR PRO-
 7 Duction IN EXCESS OF 4 MILLION POUNDS.—For
 8 milk marketings in excess of 4,000,000 pounds in-
 9 cluded in the annual production history of a partici-
 10 pating dairy producer, the premium per hundred-
 11 weight corresponding to each coverage level is as fol-
 12 lows:

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

13 (4) TIME FOR PAYMENT.—In promulgating the
 14 rules to initiate the margin protection program, the

1 Secretary shall provide more than one method by
2 which a participating dairy producer that purchases
3 supplemental margin protection for a calendar year
4 may pay the premium under this subsection for that
5 year that maximizes producer payment flexibility
6 and program integrity.

7 (e) PRODUCER'S PREMIUM OBLIGATIONS.—

8 (1) PRO-RATION OF PREMIUM FOR NEW PRO-
9 DUCERS.—A dairy producer described in section
10 2412(e)(2) that purchases supplemental margin pro-
11 tection for a calendar year after the start of the cal-
12 endar year shall pay a pro-rated premium for that
13 calendar year based on the portion of the calendar
14 year for which the producer purchases the coverage.

15 (2) LEGAL OBLIGATION.—A participating dairy
16 producer that purchases supplemental margin pro-
17 tection for a calendar year shall be legally obligated
18 to pay the applicable premium for that calendar
19 year, except that, if the dairy producer retires, the
20 producer may request that Secretary cancel the sup-
21 plemental margin protection if the producer has ter-
22 minated the dairy operation entirely and certifies
23 under oath that the producer will not be actively en-
24 gaged in any dairy operation for at least the next
25 seven years.

1 (f) SUPPLEMENTAL PAYMENT THRESHOLD.—A par-
2 ticipating dairy producer with supplemental margin pro-
3 tection shall receive a supplemental margin protection
4 payment whenever the average actual dairy producer mar-
5 gin for a consecutive two-month period is less than the
6 coverage level threshold selected by the dairy producer
7 under subsection (b).

8 (g) SUPPLEMENTAL MARGIN PROTECTION PAY-
9 MENTS.—

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

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

18 (A) The Secretary shall calculate the dif-
19 ference between the coverage level threshold se-
20 lected by the dairy producer under subsection
21 (b) and the greater of—

22 (i) the average actual dairy producer
23 margin for the consecutive two-month pe-
24 riod; or

25 (ii) \$4.00.

1 (B) The amount determined under sub-
2 paragraph (A) shall be multiplied by the per-
3 centage selected by the participating dairy pro-
4 ducer under subsection (c) and by the lesser of
5 the following:

6 (i) The annual production history of
7 the dairy operation of the dairy producer,
8 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. 2416. EFFECT OF FAILURE TO PAY ADMINISTRATIVE**
14 **FEEES OR PREMIUMS.**

15 (a) LOSS OF BENEFITS.—A participating dairy pro-
16 ducer that fails to pay the required administrative fee
17 under section 2412 or is in arrears on premium payments
18 for supplemental margin protection under section 2415—

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

21 (2) may not receive basic margin protection
22 payments or supplemental margin protection pay-
23 ments until the fees or premiums are fully paid.

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

4 **Subpart B—Dairy Market Stabilization Program**

5 **SEC. 2431. ESTABLISHMENT OF DAIRY MARKET STABILIZA-**
6 **TION PROGRAM.**

7 (a) PROGRAM REQUIRED; PURPOSE.—The Secretary
8 shall establish and administer a dairy market stabilization
9 program applicable to participating dairy producers for
10 the purpose of assisting in balancing the supply of milk
11 with demand when dairy producers are experiencing low
12 or negative operating margins.

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

15 (1) ELECTION.—When a dairy producer signs
16 up under section 2412 to participate in the margin
17 protection program, the dairy producer shall inform
18 the Secretary of the method by which the stabiliza-
19 tion program base for the dairy producer for fiscal
20 year 2013 will be calculated under paragraph (3).

21 (2) CHANGE IN CALCULATION METHOD.—A
22 participating dairy producer may change the sta-
23 bilization program base calculation method to be
24 used for a calendar year by notifying the Secretary

1 of the change not later than a date determined by
2 the Secretary.

3 (3) CALCULATION METHODS.—A participating
4 dairy producer may elect either of the following
5 methods for calculation of the stabilization program
6 base for the producer:

7 (A) The volume of the average monthly
8 milk marketings of the dairy producer for the
9 three months immediately preceding the an-
10 nouncement by the Secretary that the stabiliza-
11 tion program will become effective.

12 (B) The volume of the monthly milk mar-
13 ketings of the dairy producer for the same
14 month in the preceding year as the month for
15 which the Secretary has announced the sta-
16 bilization program will become effective.

17 **SEC. 2432. THRESHOLD FOR IMPLEMENTATION AND RE-**
18 **DUCTION IN DAIRY PRODUCER PAYMENTS.**

19 (a) WHEN STABILIZATION PROGRAM REQUIRED.—
20 Except as provided in subsection (b), the Secretary shall
21 announce that the stabilization program is in effect and
22 order reduced payments for any participating dairy pro-
23 ducer that exceeds the applicable percentage of the pro-
24 ducer's stabilization program base whenever—

1 (1) the actual dairy producer margin has been
2 \$6.00 or less per hundredweight of milk for each of
3 the immediately preceding two months; or

4 (2) the actual dairy producer margin has been
5 \$4.00 or less per hundredweight of milk for the im-
6 mediately preceding month.

7 (b) EXCEPTION.—The Secretary shall not make the
8 announcement under subsection (a) to implement the sta-
9 bilization program or order reduced payments if any of
10 the conditions described in section 2436(b) have been met
11 during the two months immediately preceding the month
12 in which the announcement under subsection (a) would
13 otherwise be made by the Secretary in the absence of this
14 exception.

15 (c) EFFECTIVE DATE FOR IMPLEMENTATION OF
16 PAYMENT REDUCTIONS.—Reductions in dairy producer
17 payments shall commence beginning on the first day of
18 the month immediately following the date of the announce-
19 ment by the Secretary under subsection (a).

20 **SEC. 2433. PRODUCER MILK MARKETING INFORMATION.**

21 (a) COLLECTION OF MILK MARKETING DATA.—The
22 Secretary shall establish, by regulation, a process to collect
23 from participating dairy producers and handlers such in-
24 formation that the Secretary considers necessary for each
25 month during which the stabilization program is in effect.

1 (b) REDUCE REGULATORY BURDEN.—When imple-
2 menting the process under subsection (a), the Secretary
3 shall minimize the regulatory burden on dairy producers
4 and handlers.

5 **SEC. 2434. CALCULATION AND COLLECTION OF REDUCED**
6 **DAIRY PRODUCER PAYMENTS.**

7 (a) REDUCED PRODUCER PAYMENTS REQUIRED.—
8 During any month in which payment reductions are in ef-
9 fect under the stabilization program, each handler shall
10 reduce payments to each participating dairy producer
11 from whom the handler receives milk.

12 (b) REDUCTIONS BASED ON ACTUAL DAIRY PRO-
13 DUCER MARGIN.—

14 (1) REDUCTION REQUIREMENT 1.—Unless the
15 reduction required by paragraph (2) or (3) applies,
16 when the actual dairy producer margin has been
17 \$6.00 or less per hundredweight of milk for two con-
18 secutive months, the handler shall make payments to
19 a participating dairy producer for a month based on
20 the greater of the following:

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

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

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

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

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

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

17 (A) 96 percent of the stabilization program
18 base of the dairy producer.

19 (B) 92 percent of the marketings of milk
20 for the month by the producer.

21 (c) CONTINUATION OF REDUCTIONS.—The largest
22 level of payment reduction required under paragraph (1),
23 (2), or (3) of subsection (b) shall be continued for each
24 month until the Secretary suspends the stabilization pro-

1 gram and terminates payment reductions in accordance
2 with section 2436.

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

10 **SEC. 2435. REMITTING MONIES TO THE SECRETARY AND**
11 **USE OF MONIES.**

12 (a) REMITTING MONIES.—As soon as practicable
13 after the end of each month during which payment reduc-
14 tions are in effect under the stabilization program, each
15 handler shall remit to the Secretary an amount equal to
16 the amount by which payments to participating dairy pro-
17 ducers are reduced by the handler under section 2434.

18 (b) DEPOSIT OF MONIES.—All monies received under
19 subsection (a) shall be available to the Secretary, without
20 further appropriation and until expended, for use or trans-
21 fer as provided in subsection (c).

22 (c) USE OF MONIES.—

23 (1) AVAILABILITY FOR CERTAIN COMMODITY
24 DONATIONS.—Within three months of the receipt of

1 monies under subsection (a), the Secretary shall ob-
2 ligate the monies for the purpose of—

3 (A) purchasing dairy products for donation
4 to food banks and other programs that the Sec-
5 retary determines appropriate; and

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

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

15 (3) ACCOUNTING.—The Secretary shall keep an
16 accurate account of all monies obligated under para-
17 graph (1).

18 (d) ANNUAL REPORT.—Not later than December 31
19 of each year that the stabilization program is in effect,
20 the Secretary shall submit to the Committee on Agri-
21 culture of the House of Representatives and the Com-
22 mittee on Agriculture, Nutrition, and Forestry of the Sen-
23 ate a report that provides an accurate accounting of—

24 (1) the monies received by the Secretary during
25 the preceding fiscal year under subsection (a); and

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

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

8 (A) the price in the United States for
9 cheddar cheese is equal to or greater than the
10 world price of cheddar cheese; or

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

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

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

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

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

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

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

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

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

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

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

1 (B) the price in the United States for non-
2 fat dry milk is not less than 97 percent of the
3 world price of skim milk powder;

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

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

11 (B) the price in the United States for non
12 fat dry milk is more than 3 percent above the
13 world price of skim milk powder; or

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

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

20 (B) the price in the United States for non
21 fat dry milk is more than 6 percent above the
22 world price of skim milk powder.

23 (d) IMPLEMENTATION BY HANDLERS.—Effective on
24 the day after the date of the announcement by the Sec-
25 retary under subsection (b) or (c) of the suspension of the

1 stabilization program, the handler shall cease reducing
2 payments to participating dairy producers under the sta-
3 bilization program.

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

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

12 (2) the conditions of section 2432(a) are again
13 met.

14 **SEC. 2437. ENFORCEMENT.**

15 (a) **UNLAWFUL ACT.**—It shall be unlawful and a vio-
16 lation of the this subpart for any person subject to the
17 stabilization program to willfully fail or refuse to provide,
18 or delay the timely reporting of, accurate information and
19 remittance of funds to the Secretary in accordance with
20 this subpart.

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

1 (c) APPEAL.—An order of the Secretary under sub-
2 section (b) shall be final and conclusive unless an affected
3 person files an appeal of the order of the Secretary in
4 United States district court not later than 30 days after
5 the date of the issuance of the order. A finding of the
6 Secretary in the order shall be set aside only if the finding
7 is not supported by substantial evidence.

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

18 **SEC. 2438. AUDIT REQUIREMENTS.**

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

21 (1) AUDITS AUTHORIZED.—If determined by
22 the Secretary to be necessary to ensure compliance
23 by participating dairy producers and handlers with
24 the stabilization program, the Secretary may con-

1 duct periodic audits of participating dairy producers
2 and handlers.

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

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

14 **Subpart C—Commodity Credit Corporation**

15 **SEC. 2451. USE OF COMMODITY CREDIT CORPORATION.**

16 The Secretary shall use the funds, facilities, and the
17 authorities of the Commodity Credit Corporation to carry
18 out this part.

19 **Subpart D—Initiation and Duration**

20 **SEC. 2461. RULEMAKING.**

21 (a) **PROCEDURE.**—The promulgation of regulations
22 for the initiation of the margin protection program and
23 the stabilization program, and for administration of such
24 programs, shall be made without regard to—

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

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

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

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

13 **SEC. 2462. DURATION.**

14 The margin protection program and the stabilization
15 program shall end on December 31, 2017.

16 **PART II—REPEAL OR REAUTHORIZATION OF**
17 **OTHER DAIRY-RELATED PROVISIONS**

18 **SEC. 2481. REPEAL OF DAIRY PRODUCT PRICE SUPPORT**
19 **AND MILK INCOME LOSS CONTRACT PRO-**
20 **GRAMS.**

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

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

4 **SEC. 2482. REPEAL OF DAIRY EXPORT INCENTIVE PRO-**
5 **GRAM.**

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

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

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

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

14 **SEC. 2483. EXTENSION OF DAIRY FORWARD PRICING PRO-**
15 **GRAM.**

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

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

20 (2) in paragraph (2), by striking “2015” and
21 inserting “2020”.

22 **SEC. 2484. EXTENSION OF DAIRY INDEMNITY PROGRAM.**

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

1 **SEC. 2485. EXTENSION OF DAIRY PROMOTION AND RE-**
2 **SEARCH PROGRAM.**

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

6 **SEC. 2486. REPEAL OF FEDERAL MILK MARKETING ORDER**
7 **REVIEW COMMISSION.**

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

11 **PART III—EFFECTIVE DATE**

12 **SEC. 2491. EFFECTIVE DATE.**

13 This title and the amendments made by this title
14 shall take effect on October 1, 2012.

