To replace current dairy product price support and milk income loss contract programs with a program to protect dairy producer income when the difference between milk prices and feed costs is less than a specified amount, to establish a dairy market stabilization program, to amend Federal milk marketing orders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Peterson introduced the following bill; which was referred to the Committee on ____________

A BILL

To replace current dairy product price support and milk income loss contract programs with a program to protect dairy producer income when the difference between milk prices and feed costs is less than a specified amount, to establish a dairy market stabilization program, to amend Federal milk marketing orders, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **Short Title.**—This Act may be cited as the "__________ Act".

(b) **Table of Contents.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—DAIRY PRODUCER MARGIN PROTECTION PROGRAM**

Sec. 101. Definitions.
Sec. 102. Dairy producer margin protection program.
Sec. 103. Eligibility and registration of dairy producers for program.
Sec. 104. Establishment of production history of registered dairy producers.
Sec. 105. Basic margin protection.
Sec. 106. Supplemental margin protection.
Sec. 107. No payment limitations.
Sec. 108. Use of Commodity Credit Corporation.
Sec. 109. Duration.

**TITLE II—DAIRY MARKET STABILIZATION PROGRAM**

Sec. 201. Definitions.
Sec. 203. Calculation of average feed cost and actual dairy producer margins.
Sec. 204. Program threshold for implementation and reduction in dairy producer payments.
Sec. 205. Collection of producer milk marketings information.
Sec. 206. Calculation of reduced dairy producer payments.
Sec. 207. Limited availability of monies remitted to Secretary under section 206.
Sec. 208. Suspension of reduced payment requirement.
Sec. 209. Audit of producer and handler compliance.
Sec. 211. Duration.

**TITLE III—FEDERAL MILK MARKETING ORDER REFORM**

Sec. 301. Definition and amendment reference.

Subtitle A—Order Amendments

Sec. 311. Required amendments of general provisions of Federal milk marketing orders.
Sec. 312. Cross references to new Federal milk marketing order general provisions.
Sec. 313. Conforming amendments to regional Federal milk marketing orders.

Subtitle B—Expedited Amendment Process

Sec. 321. Expedited amendment process.
Sec. 322. Additional regulations.
Sec. 323. Effective date.
Sec. 324. Subsequent amendment of Federal milk marketing orders.

Subtitle C—Dairy Market Price Surveys and Other Matters

Sec. 331. Definition of dairy products for dairy product mandatory reporting.
Sec. 332. Surveys of market milk prices.
Sec. 333. Development of effective balancing programs for milk markets.

TITLE IV—REPEAL OF SUPERSEDED PROVISIONS

Sec. 401. Repeal of dairy product price support and milk income loss contract programs.
Sec. 402. Repeal of permanent price support authority for milk.
Sec. 403. Effective date.

TITLE I—DAIRY PRODUCER MARGIN PROTECTION PROGRAM

SEC. 101. DEFINITIONS.

In this title:

(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 102(d).

(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 reported by the National Agricultural Statistics Service.

(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 102(c) using the sum of the following:
(A) The product determined by multiplying 1.192 by the price of corn per bushel.

(B) The product determined by multiplying 0.00817 by the price of soybean meal per ton.

(C) The product determined by multiplying 0.0152 by the price of alfalfa hay per ton.

(4) 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.

(5) DAIRY PRODUCER.—The term “dairy producer” means an individual or entity that directly or indirectly (as determined by the Secretary)—

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

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

(6) PRODUCTION HISTORY.—
(A) IN GENERAL.—Except as provided in subparagraph (B), the term “production history”, with respect to a dairy producer, means the highest annual milk production of the dairy producer during any one of the three calendar years immediately preceding the dairy producer’s registration with the Secretary for participation in the program.

(B) NEW PRODUCERS.—If a dairy producer has been in operation for less than a year, the Secretary shall determine the production history of the dairy producer by extrapolating the actual milk production for the months the dairy producer has been in operation to a yearly production amount.

(7) PROGRAM.—The term “program” means the dairy producer margin protection program required by this title.

(8) PROJECTED DAIRY PRODUCER MARGIN.—The term “projected dairy producer margin” means the estimate prepared by the Secretary pursuant to section 102(b).

(9) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.
SEC. 102. DAIRY PRODUCER MARGIN PROTECTION PROGRAM.

(a) PROGRAM REQUIRED; PURPOSE.—The Secretary shall establish and administer a dairy producer margin protection program for the purpose of protecting dairy producer income through the provision of basic margin protection payments and, if purchased by a dairy producer, supplemental margin protection payments when actual dairy producer margins are less than the threshold levels for such payments.

(b) ESTIMATION OF PROJECTED DAIRY PRODUCER MARGIN.—

(1) ESTIMATE REQUIRED.—The Secretary shall prepare an estimate of the projected dairy producer margin for the five-year period beginning on January 1, 2012, consisting of the difference between—

(A) an estimate of the average all-milk price, per hundredweight of milk, for such period; and

(B) an estimate of average feed cost for such period.
(2) **Publication.**—The Secretary shall publish the estimate of the projected dairy producer margin in the Federal Register as soon as practicable after the date of the enactment of this Act, but in no case later than 90 days after that date.

(c) **Calculation of Average Feed Cost.**—Not later than the fifth day after the end of each consecutive two-month period, the Secretary shall calculate the national average feed cost for that consecutive two-month period using the following data:

(1) The price of corn for each month of that consecutive two-month period shall be the price received during that month by farmers in the United States for corn, as reported by the National Agricultural Statistics Service.

(2) The price of soybean meal for each month of that consecutive two-month period shall be the price received in the United States for soybean meal, as reported by the Agricultural Marketing Service.

(3) The price of alfalfa hay for each month of that consecutive two-month period shall be the price received during that month by farmers in the United States for alfalfa hay, as reported by the National Agricultural Statistics Service.
(d) Calculation of Actual Dairy Producer Margin.—The Secretary shall calculate the actual dairy producer margin for each consecutive two-month period by subtracting—

(1) the average feed cost for that consecutive two-month period, determined in accordance with subsection (c); from

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

SEC. 103. ELIGIBILITY AND REGISTRATION OF DAIRY PRODUCERS FOR PROGRAM.

(a) Eligibility.—All dairy producers in the United States are eligible to participate in the program, except that a dairy producer must be registered with the Secretary before the producer may—

(1) receive basic margin protection payments under section 105; and

(2) if purchased by the dairy producer, supplemental margin protection payments under section 106.

(b) Registration.—

(1) In general.—The Secretary shall register all interested dairy producers in the program. The Secretary shall specify the manner and form by which a dairy producer may register.
(2) EXISTING DAIRY PRODUCERS.—During the one-year period beginning on the date of the enactment of this Act, a dairy producer who is actively engaged in a dairy operation as of such date may register with the Secretary—

(A) to receive basic margin protection; and

(B) if the producer chooses, to purchase supplemental margin protection.

(3) NEW ENTRANTS.—A dairy producer who has no existing interest in a dairy operation as of the date of the enactment of this Act, but who, after such date, establishes a new dairy operation, may register with the Secretary during the 180-day period beginning on the date on which the dairy operation first markets milk commercially—

(A) to receive basic margin protection; and

(B) if the producer chooses, to purchase supplemental margin protection.

(4) 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 registration—

(A) to receive basic margin protection; and
(B) at the election of the producers, to purchase supplemental margin protection.

(5) 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—

(A) to receive basic margin protection; and

(B) at the election of the producer, to purchase supplemental margin protection.

(c) Reconstitution.—The Secretary shall ensure that a dairy producer does not reconstitute a dairy operation for the sole purpose of receiving basic margin protection or supplemental margin protection.

SEC. 104. ESTABLISHMENT OF PRODUCTION HISTORY OF REGISTERED DAIRY PRODUCERS.

(a) Establishment of Production History.—

(1) Establishment.—When a dairy producer registers with the Secretary for participation in the program, the dairy producer shall provide all information required by the Secretary to establish the production history of the dairy operation of the producer.

(2) Duration.—Once the production history is established for a dairy producer upon registration,
the production history shall not be changed for the
duration of the dairy producer’s participation in the
program.

(b) Transfer of Production History of Existing Dairy Producers.—

(1) Transfer by Sale.—

(A) Request for Transfer.—If an existing dairy producer, as described in section 103(b)(2), sells an entire dairy operation to another party, the seller and purchaser may jointly request that the Secretary transfer the seller’s production history to the purchaser.

(B) Transfer.—If the Secretary determines that the seller has sold the entire dairy operation to the purchaser, the Secretary shall approve the transfer, and, thereafter, the seller shall have no interest in that production history.

(2) Transfer by Lease.—

(A) Request for Transfer.—If an existing dairy producer, as described in section 103(b)(2), leases an entire dairy operation to another party, the lessor and lessee may jointly request that the Secretary transfer the lessor’s
production history to the lessee for the duration of the term of the lease.

(B) TRANSFER.—If the Secretary determines that the lessor has leased the entire dairy operation to the lessee, the Secretary shall approve the transfer, and, thereafter, the lessor shall have no interest in that production history for the duration of the term of the lease.

(3) COVERAGE LEVEL.—A purchaser or lessee to whom the Secretary transfers a production history under this subsection may not obtain a different level of basic margin protection or supplemental margin protection coverage than the basic margin protection or supplemental margin protection coverage held by the seller or lessor from whom the purchaser or lessee obtained the production history.

(c) TRANSFER OF PRODUCTION HISTORY OF NEW ENTRANTS.—The Secretary may not transfer the production history of a dairy producer described in section 103(b)(3) to another person.

(d) 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 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 production history previously associated with the operation at such location.

**SEC. 105. BASIC MARGIN PROTECTION.**

(a) **ELIGIBILITY.**—All dairy producers registered to participate in the program are eligible to receive basic margin protection under the program.

(b) **NO COST TO DAIRY PRODUCER.**—Basic margin protection shall be provided to a registered dairy producer at no cost to the dairy producer.

(c) **PAYMENT THRESHOLD.**—All registered 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.

(d) **BASIC MARGIN PROTECTION PAYMENT.**—
(1) PAYMENT REQUIRED.—The Secretary shall make a basic margin protection payment to each registered dairy producer for a consecutive two-month period whenever such a payment is required by subsection (c) for that period.

(2) AMOUNT OF PAYMENT.—The basic margin protection payment for the dairy operation of a 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 producer margin for the consecutive two-month period and $4.00.

(B) The amount determined under subparagraph (A) shall be multiplied by of the lesser of the following:

(i) 75 percent of the production history of the dairy producer, divided by six.

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

SEC. 106. SUPPLEMENTAL MARGIN PROTECTION.

(a) ELECTION OF SUPPLEMENTAL MARGIN PROTECTION.—At the time of program registration of a dairy pro-
ducer, the dairy producer may purchase supplemental margin protection under the program.

(b) Payment Threshold and Percentage of Production History Covered.—

(1) Purpose.—Supplemental margin protection is intended to protect a higher level of the income of a dairy producer than the income level guaranteed by basic margin protection under section 105.

(2) Election of Payment Threshold.—A dairy producer purchasing supplemental margin protection may elect a coverage level that is higher, in any increment of $0.50, than the payment threshold for basic margin protection specified in section 105(c), but not to exceed the lesser of—

   (A) the projected dairy producer margin;
   or
   
   (B) $8.00.

(3) Election of Production History Percentage.—A dairy producer purchasing supplemental margin protection shall elect a percentage, equal to not more than 90 percent nor less than 25 percent, of the production history of the producer to be covered by supplemental margin protection.

(c) Producer Premiums.—Not later than January 15 of each year for which supplemental margin protection
is available, a dairy producer purchasing supplemental margin protection shall pay a premium equal to the product obtained by multiplying—

(1) the percentage of production history elected by the producer under subsection (b)(3);

(2) the production history of the producer; and

(3) the premium per hundredweight of milk, as follows:

<table>
<thead>
<tr>
<th>Coverage Level</th>
<th>Premium per Cwt.</th>
</tr>
</thead>
<tbody>
<tr>
<td>$4.50</td>
<td>$0.015</td>
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<td>$7.50</td>
<td>$0.590</td>
</tr>
<tr>
<td>$8.00</td>
<td>$0.922</td>
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</tbody>
</table>

(d) PRODUCER’S PREMIUM OBLIGATIONS.—

(1) PRO-RATION OF FIRST YEAR PREMIUM.—A dairy producer who purchases supplemental margin protection after initial program registration shall pay a pro-rated premium for the first year based on the date on which the producer purchases the coverage.

(2) SUBSEQUENT PREMIUMS.—Other than as provided in paragraph (1), the annual premium for a dairy producer shall be fixed at the level determined under subsection (c) for each year of the program.
(3) LEGAL OBLIGATION.—A dairy producer who elects to purchase supplemental margin protection shall be legally obligated to pay the applicable premiums for the entire period of the program, and may not opt out of the program, except—

(A) if the dairy producer dies, the estate of the deceased may cancel the supplemental margin protection and shall not be responsible for any further premium payments; or

(B) 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.

(4) LOSS OF BENEFITS; REPAYMENT.—A dairy producer who is in arrears on premium payments for supplemental margin protection for more than 90 days shall—

(A) remain legally obligated to pay the premiums;

(B) repay supplemental margin protection payments previously paid to the producer; and
(C) lose the right to receive any further supplemental margin protection payments.

(e) Supplemental Payment Threshold.—A dairy producer who has purchased supplemental margin protection shall receive a payment whenever the average actual dairy producer margin for a consecutive two-month period is less than the coverage level elected by the dairy producer under subsection (b)(2).

(f) Supplemental Margin Protection Payments.—

(1) In general.—The supplemental margin protection payment for a dairy producer is in addition to the basic margin protection payment.

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

(A) The Secretary shall calculate the difference between the elected coverage level under subsection (b)(2) 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 per-
percentage of production history elected by the dairy producer under subsection (b)(3) and by the lesser of the following:

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

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

SEC. 107. NO PAYMENT LIMITATIONS.

Notwithstanding any other provision of law, basic margin protection payments and supplemental margin protection payments received by a dairy producer under the program shall not be subject to limitations for any reason.

SEC. 108. USE OF COMMODITY CREDIT CORPORATION.

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

SEC. 109. DURATION.

The Secretary shall conduct the program during the period beginning on January 1, 2012, and ending on December 31, 2017.
TITLE II—DAIRY MARKET
STABILIZATION PROGRAM

SEC. 201. DEFINITIONS.

In this title:

(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 203(b).

(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 reported by the National Agricultural Statistics Service.

(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 203(a) using the sum of the following:

(A) The product determined by multiplying 1.192 by the price of corn per bushel.

(B) The product determined by multiplying 0.00817 by the price of soybean meal per ton.

(C) The product determined by multiplying 0.0152 by the price of alfalfa hay per ton.
(4) **Dairy Producer.**—The term “dairy producer” means an individual or entity that directly or indirectly (as determined by the Secretary)—

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

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

(5) **Handler.**—

(A) **In General.**—The term “handler” means a person 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.

(6) **Program.**—The term “program” means the dairy market stabilization program required by this title.

(7) **Program Base.**—The term “program base”, with respect to a dairy producer means the program base calculated for the producer under section 202(b).
(8) PROGRAM BOARD.—The term “program board” means the board of directors appointed by the Secretary under section 210.

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

(10) UNITED STATES.—The term “United States”, in a geographical sense, means the 50 States.

SEC. 202. DAIRY MARKET STABILIZATION PROGRAM.

(a) PROGRAM REQUIRED; PURPOSE.—The Secretary shall establish and administer a dairy market stabilization program applicable to all dairy producers in the United States for the purpose of balancing the supply of milk with demand when dairy producers are experiencing low or negative operating margins.

(b) ELECTION OF PROGRAM BASE CALCULATION METHOD.—

(1) DEADLINE FOR ELECTION.—Not later than January 15, 2012, each dairy producer shall inform the Secretary of the method by which the program base for the producer for 2012 will be calculated under paragraph (5).

(2) CHANGE IN CALCULATION METHOD.—A dairy producer may change the program base calculation method to be used for a calendar year by
notifying the Secretary of the change not later than January 15 of that year.

(3) **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 jointly make the election under paragraph (1) with respect to the operation and jointly make any change to that election under paragraph (2).

(4) **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 election under paragraph (1).

(5) **Calculation Methods.**—A dairy producer may elect either of the following methods for calculation of the 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 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 pro-
gram will become effective.

SEC. 203. CALCULATION OF AVERAGE FEED COST AND AC-
TUAL 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 by the National
Agricultural Statistics Service.

(2) The price of soybean meal for a month shall
be the price received in the United States for soy-
bean meal, as reported by the Agricultural Mar-
keting Service.

(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 by
the National Agricultural Statistics Service.

(b) CALCULATION OF ACTUAL DAIRY PRODUCER
MARGINS.—Not later than the fifth day after the end of
each month, the Secretary shall calculate the actual dairy
producer margin for that month by subtracting—

(1) the average feed cost for that month, deter-
minded in accordance with subsection (a); from
(2) the all-milk price for that month.

SEC. 204. PROGRAM THRESHOLD FOR IMPLEMENTATION AND REDUCTION IN DAIRY PRODUCER PAYMENTS.

(a) WHEN PROGRAM REQUIRED.—The Secretary shall announce that the program is in effect and order reduced payments to any dairy producer who exceeds the applicable percentage of the producer’s program base whenever—

1. the actual dairy producer margin has been $6.00 or less per hundredweight of milk for 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) 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 announcement by the Secretary under subsection (a).

SEC. 205. COLLECTION OF PRODUCER MILK MARKETINGS INFORMATION.

(a) COLLECTION BY HANDLERS.—For each month during which the program is in effect, each handler shall calculate the following:
(1) The volume of milk marketings the handler has received from each dairy producer during that month.

(2) The volume of milk marketings the handler has received from each dairy producer during the same month of the preceding year.

(3) The volume of milk marketings the handler has received from each dairy producer during each of the three months preceding the month in which the Secretary makes the announcement that the program will be in effect.

(b) Effect of Changing Handlers.—If a dairy producer changes handlers, the producer shall ensure that milk marketings data required to make the calculations under subsection (a) is provided to the new handler.

SEC. 206. CALCULATION OF REDUCED DAIRY PRODUCER PAYMENTS.

(a) Reduced Producer Payments Required.—During any month in which payment reductions are in effect under the program, each handler shall—

(1) reduce payments to each dairy producer from whom the handler receives milk, if payment reductions are required by this section; and

(2) remit to the Secretary the amount by which payments are reduced.
(b) **Reductions Based on Actual Dairy Producer 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 consecutive months, the handler shall make payments to a dairy producer for a month based on the greater of the following:

(A) 98 percent of the 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 dairy producer for a month based on the greater of the following:

(A) 97 percent of the 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 dairy producer for a month based on the greater of the following:

(A) 96 percent of the 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 program and terminates payment reductions in accordance with section 208.

(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 program base applicable to the producer under paragraph (1), (2), or (3) of subsection (b).

(e) Reconstitution.—The Secretary shall ensure that a dairy producer does not reconstitute a dairy oper-
ation for the sole purpose of altering the level of payment
reductions required by this section.

SEC. 207. LIMITED AVAILABILITY OF MONIES REMITTED TO
SECRETARY UNDER SECTION 206.

(a) AVAILABILITY FOR PROGRAM BOARD ACTIVITIES.—As soon as practicable after the end of month during which payment reductions are in effect under the program, the Secretary shall make available to the program board under section 210 50 percent of the monies remitted to the Secretary under section 206 during that month.

(b) DEPOSIT OF REMAINING MONIES IN TREASURY.—The Secretary shall deposit in the Treasury all monies remitted to the Secretary under section 206 that are not made available to the program board under subsection (a), and the monies so deposited shall no longer be available for obligation by the Secretary.

SEC. 208. SUSPENSION OF REDUCED PAYMENT REQUIREMENT.

(a) SUSPENSION THRESHOLDS.—The Secretary shall suspend the program whenever the Secretary determines that—

(1) the actual dairy producer margin is greater than $6.00 per hundredweight of milk for two consecutive months; or
(2) the price in the United States for either cheddar cheese or skim milk powder (non-fat dry milk) is more than 20 percent above the world price for that same commodity for two consecutive months.

(b) IMPLEMENTATION BY HANDLERS.—Handlers shall cease reducing payments to dairy producers under the program upon receiving notice of the suspension of the program from the Secretary.

(c) EXCEPTION.—Subsection (a)(2) shall not apply if the Secretary determines that the actual dairy producer margin during the same two consecutive months is below $4.00 per hundredweight of milk.

SEC. 209. AUDIT OF PRODUCER AND HANDLER COMPLIANCE.

(a) AUDITS AUTHORIZED.—If determined by the Secretary to be necessary to ensure dairy producer and handler compliance with the program, the Secretary may conduct periodic audits of participating dairy operations and handlers.

(b) SAMPLE OF DAIRY PRODUCERS.—Any audit conducted under subsection (a) shall include, at a minimum, investigation of a statistically valid and random sample of dairy producers.
SEC. 210. PROGRAM BOARD.

(a) Establishment; Purpose.—The Secretary shall establish a board of directors for the program for the purpose of—

(1) administering the monies remitted to the Secretary under section 206 that are made available to the program board under section 207; and
(2) determining the most effective use of such monies.

(b) Appointment of Directors.—

(1) Number and Qualifications.—The Secretary shall appoint 24 members to serve on the program board, who shall be representative of the United States dairy producer community, taking into account geographical diversity, cooperative membership, and volumes of milk produced in various States and regions.

(2) Reimbursement of Expenses.—From the monies made available to the program board under section 207, the Secretary shall reimburse members of the program board for those costs of service on the program board that the Secretary determines reasonable and appropriate.

(e) Decisionmaking.—The program board shall reach decisions by an affirmative vote of 2/3 of its members.
(d) Removal of Dairy Products and Expansion of Demand.—

(1) Spending Authority.—The program board shall have the authority to use monies made available to the program board under section 207—

(A) to purchase dairy products through commercial sources for donation to food banks and other food programs that the Board determines appropriate, within three months of collecting the funds; and

(B) to expand consumption and build demand for dairy products.

(2) No Duplication of Effort.—The program board shall ensure that projects supported 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) Management Contract.—The program board may enter into a contract with a managing entity to carry out this subsection.

(e) Program Evaluation.—

(1) Contract Authority.—Using monies made available to the program board under section
207, the program board shall enter into a contract for an evaluation of the program after it has been in operation for two years. The evaluation shall include the use of established dairy economic models to ascertain the effectiveness and operation of the program.

(2) Submission of results.—The program board shall submit the results of evaluations conducted under paragraph (1) to the Secretary, who shall review such evaluations and make such recommendations to Congress as the Secretary considers appropriate regarding the program.

SEC. 211. DURATION.

The Secretary shall conduct the program during the period beginning on January 1, 2012, and ending on December 31, 2017.

TITLE III—FEDERAL MILK MARKETING ORDER REFORM

SEC. 301. DEFINITION AND AMENDMENT REFERENCE.

(a) Definition.—In this title, the term “Secretary” means the Secretary of Agriculture.

(b) Amendments to Code of Federal Regulations.—Whenever in this title the Secretary is directed to amend or repeal a section, the reference shall be consid-
The Secretary of Agriculture shall execute amendments required by this section to certain provisions that are common to, and apply to, all Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as contained in part 1000 of chapter X of title 7, Code of Federal Regulations.

(b) Handler Responsibility for Records and Facilities.—The Secretary shall amend section 1000.27(a)(2) to read as follows:

“(2) Each handler shall keep such other specific records as the market administrator deems necessary—

“(A) to verify or establish such handler’s obligation under the order; or

“(B) to provide information necessary to the administration of any Federal milk order.”.
(c) **Price Surveys.**—The Secretary shall amend sections 1000.33 and 1000.34 to read as follows:

**§ 1000.33 Dairy product price survey.**

“Each plant shall report such information as the market administrator determines to be necessary to conduct and audit the dairy product price survey pursuant to §1170.

**§ 1000.34. Competitive milk price survey.**

“Each plant shall report such information as the market administrator determines to be necessary to conduct and audit the competitive milk price survey required to establish producer price differentials under a Federal milk order.”.

(d) **Classes of Utilization.**—The Secretary shall amend section 1000.40 to read as follows:

**§ 1000.40 Classes of utilization.**

“Except as provided in §1000.42, all skim milk and butterfat required to be reported pursuant to §____.30 of each Federal milk order shall be classified as follows:

“(a) Class I milk shall be all skim milk and butterfat:

“(1) Disposed of in the form of fluid milk products, except as otherwise provided in this section.
“(2) In packaged fluid milk products in inventory at the end of the month.

“(3) In shrinkage assigned pursuant to §1000.43(b).

“(b) Class II milk shall be all skim milk and butterfat:

“(1) In fluid milk products in containers larger than 1 gallon and fluid cream products disposed of or diverted to a commercial food processing establishment if the market administrator is permitted to audit the records of the commercial food processing establishment for the purpose of verification. Otherwise, such uses shall be Class I.

“(2) Used to produce:

“(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, ricotta cheese, pot cheese, Creole cheese, and any similar soft, high moisture cheese resembling cottage cheese in form or use.

“(ii) Milkshake and ice milk mixes (or bases), frozen desserts, and frozen dessert mixes distributed in half-gallon containers or larger and intended to be used in soft or semi-solid form.
“(iii) Aerated cream, frozen cream, sour cream, sour half-and-half, sour cream mixtures containing non-milk items; yogurt, including yogurt containing beverages with 20 percent or more yogurt by weight and kefir, and any other semi-solid product resembling a product described in this sub-paragraph.

“(iv) Custards, puddings, pancake mixes, coatings, batter, and similar products.

“(v) Buttermilk biscuit mixes and other buttermilk for baking that contain food starch in excess of 2 percent of the total solids, provided that the product is labeled to indicate the food starch content.

“(vi) Products especially prepared for infant feeding or dietary use (meal replacements) that are packaged in hermetically sealed containers and products that meet the compositional standards of §1000.15(a) but contain no fluid milk products included in §1000.15(a).

“(vii) Candy, soup, bakery products and other prepared foods which are proce-
essed for general distribution to the public, and intermediate products, including sweetened condensed milk, to be used in processing such prepared food products.

“(viii) A fluid cream product or any product containing artificial fat or fat substitutes that resembles a fluid cream product, except as otherwise provided in subparagraph (3).

“(ix) Any product not otherwise specified in this section

“(3) Used to produce:

“(i) Cream cheese and other spreadable cheeses, and hard cheese of types that may be shredded, grated, or crumbled.

“(ii) Plastic cream, anhydrous milkfat, and butteroil.

“(4) Used to produce:

“(i) Butter.

“(ii) Evaporated or sweetened condensed milk in a consumer type package.

“(iii) Any milk product in dried form.
“(5) In inventory at the end of the month of fluid milk products and fluid cream products in bulk form.

“(6) In the skim milk equivalent of nonfat milk solids used to modify a fluid milk product that has not been accounted for in Class I.

“(7) In shrinkage assigned pursuant to §1000.43(b).

“(8) Used in any product otherwise described in paragraph (a) or this paragraph, to the extent that the quantities so used can be verified from records to the satisfaction of the market administrator, but that is—

“(i) dumped;

“(ii) destroyed;

“(iii) used for animal feed; or

“(iv) lost by a handler in a vehicular accident, flood, fire, or similar occurrence beyond the handler’s control.”.

(e) Classification of Transfers and Diversions.—The Secretary shall amend section 1000.42—

(1) in paragraph (b)(2)(ii), by striking “, III, and IV” after “in excess of Class II”;

(2) in paragraph (c)(3), by striking the second sentence and inserting the following: “For this pur-
pose, the receiving handler’s utilization of skim milk and butterfat in each class shall be assigned, to the extent possible, to its receipts of skim milk and butterfat, in bulk fluid cream products, and bulk fluid milk products, respectively, pro rata to each source, first to Class II, then to Class I.”.

(f) General Classification Rules.—The Secretary shall amend section 1000.43(b)—

(1) in subparagraph (1), by striking “the lowest-priced class” and inserting “Class II”;

(2) in subparagraph (2), by striking “lowest-price class” and inserting “Class II”.

(g) Classification of Producer Milk.—The Secretary shall amend section 1000.44(a)—

(1) in subparagraph (2), by striking “(excluding the quantity of such skim milk that was classified as Class IV milk pursuant to §1000.43(d)(3))”;

(2) in subparagraph (3), by striking “in series beginning with Class IV” and inserting “first from Class II, then from Class I”;

(3) in subparagraph (4)—

(A) by striking “all classes other than Class I, in sequence beginning with Class IV” and inserting “Class II”; and
(B) by striking “other than Class I, but not in excess of the pounds of skim milk remaining in these other classes combined” and inserting “as Class II”;

(4) in subparagraph (5), by striking “all classes other than Class I, in sequence beginning with Class IV” and inserting “Class II”;

(5) in subparagraph (6)—

(A) by striking “all classes other than Class I, in sequence beginning with Class IV” and inserting “Class II”;

(B) by striking “if other than Class I” and inserting “if Class II”; and

(C) by striking “these classes combined” and by inserting “Class II”;

(D) in subparagraph (7), by striking “in series beginning with Class IV” and inserting “first from Class II, then from Class I”;

(E) in subparagraph (8), by striking “, III and IV combined, with the quantity prorated to Classes II, III and IV combined being subtracted in sequence beginning with Class IV”; and

(F) in subparagraph (9), by striking “in Classes II, III and IV combined, with the quan-
tity prorated to Classes II, III and IV combined being subtracted in sequence beginning with Class IV” and inserting “Class II”.

(h) Milk Prices, Component Prices, and Advanced Pricing Factors.—The Secretary shall amend section 1000.50 to read as follows:

“§ 1000.50 Milk prices, component prices, and advanced pricing factors.

“The prices and pricing factors described in paragraphs (a), (b), (c), (d), (e), (f), (n), and (o) of this section shall be based on weighted average dairy product prices of the most recent 2 weekly prices, and competitive milk prices for the previous month, announced by the Department before the 24th day of the month. These prices shall be announced on or before the 23rd day of the month and shall apply to milk received during the following month. The prices described in paragraphs (g) through (m) of this section shall be based on weighted average dairy product prices for the preceding month of weekly prices, and competitive milk prices for the preceding month, announced by the Department on or before the 5th day of the month and shall apply to milk received during the preceding month.

“(a) Class I Price.—The Class I price per hundredweight, rounded to the nearest cent, shall be
.965 times the Class I skim milk price plus 3.5
times the Class I butterfat price.

“(b) CLASS I SKIM MILK PRICE.—The Class I
skim milk price per hundredweight shall be the ad-
justed Class I differential specified in §1000.52, plus
the adjustment to Class I prices specified in
§1005.51(b), §1006.51(b), and §1007.51(b), plus
the higher of the advanced pricing factors computed
in subparagraph (1) or (2) of paragraph (o).

“(c) CLASS I BUTTERFAT PRICE.—The Class I
butterfat price per pound shall be the adjusted Class
I differential specified in §1000.52 divided by 100,
plus the adjustments to Class I prices specified in
§1005.51(b), §1006.51(b), and §1007.51(b) divided
by 100, plus the advanced butterfat price computed
in paragraph (o)(3).

“(d) MINIMUM SKIM MILK BASE PRICE.—The
minimum skim milk base price per hundred weight,
rounded to the nearest cent, shall be the lowest re-
gional competitive milk price for the second previous
month, plus the advanced competitive milk price
updater computed in paragraph (n), minus 3.5 times
the minimum butterfat base price, all divided by
0.965.
“(e) Minimum butterfat base price.—The minimum butterfat base price per pound, rounded to the hundredth of one cent, shall be the advanced butterfat price computed in paragraph (o)(3).

“(f) Minimum base price.—The minimum base price per hundredweight, rounded to the nearest cent, shall be the lowest regional competitive milk price for the second previous month, plus the advanced competitive milk price updater computed in paragraph (n).

“(g) Regional competitive milk price.—The regional competitive milk price per hundredweight shall be the weighted average competitive price paid for milk used to make cheese in the region or regions designated per §11.51(c) of each Federal milk order and adjusted to 3.5 percent butterfat using the butterfat price computed in paragraph (l).

“(h) Lowest regional competitive milk price.—The lowest regional competitive milk price per hundredweight shall be the weighted average competitive price paid for milk used to make cheese in the region with the lowest such regional competitive milk price, and adjusted to 3.5 percent butterfat using the butterfat price computed in paragraph (l).
“(i) NATIONAL AVERAGE COMPETITIVE MILK PRICE.—The national average competitive milk price per hundredweight shall be the national weighted average competitive price paid for milk used to make cheese, adjusted to 3.5 percent butterfat using the butterfat price computed in paragraph (l).

“(j) BALANCING MILK PRICE.—The balancing milk price per hundredweight, rounded to the nearest cent, shall be .965 times the balancing skim milk price plus 3.5 times the butterfat price.

“(k) BALANCING SKIM MILK PRICE.—The balancing skim milk price per hundredweight, rounded to the nearest cent, shall be the nonfat solids price per pound times 9.

“(l) BUTTERFAT PRICE.—The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the United States average AA Butter survey price reported by the Department for the month, less 17.15 cents, with the result multiplied by 1.211.

“(m) NONFAT SOLIDS PRICE.—The nonfat solids price per pound, rounded to the nearest one-hundredth cent, shall be calculated as follows:

“(1) Subtract 16.78 cents from the United States average nonfat dry milk survey price re-
ported by the Department for the month and multiply the result by .99.

“(2) Divide the most recently announced monthly Producer Price Index for Industrial Natural Gas (as announced by the Bureau of Labor Statistics) by 239, and subtract 1. Multiply this result by 3.5 cents.

“(3) Divide the most recently announced monthly Producer Price Index for Industrial Electricity (as announced by the Bureau of Labor Statistics) by 134, and subtract 1. Multiply this result by 1.3 cents.

“(4) Subtract the results of subparagraphs (2) and (3) from the result of subparagraph (1).

“(n) ADVANCED COMPETITIVE MILK PRICE UPDATER.—Using the weighted average of the two most recent Department average weekly dairy product survey prices announced before the 24th day of the month, the advanced competitive milk price updater will be calculated as follows:

“(1) Multiply by 9.64 the United States average cheese price computed as a weighted average of—
“(i) the United States average survey price for 40-lb. block cheese reported by the Department for the month; and

“(ii) the United States average survey price for 500-pound barrel cheddar cheese (38 percent moisture) reported by the Department for the month plus 3 cents.

“(2) Multiply the United States average butter price by 0.42.

“(3) Multiply the United States average dry whey survey price by 5.86.

“(4) Add the results obtained from subparagraphs (1), (2), and (3).

“(5) From the result calculated in subparagraph (4), subtract the result of the same calculation used in announcing advanced prices in the previous month.

“(o) ADVANCED PRICING FACTORS.—For the purpose of computing the Class I skim milk price and the Class I butterfat price for the following month, the following pricing factors shall be computed using the weighted average of the two most recent United States average weekly survey prices issued by the Department, and competitive milk
prices for the previous month, announced before the 24th day of the month:

“(1) An advanced competitive skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:

“(i) Add the national average competitive milk price for the previous month to the advanced competitive milk price updater.

“(ii) Multiply the advanced butterfat price per pound times 3.5.

“(iii) Subtract the result of clause (ii) from the result of clause (i), and divide by 0.965.

“(2) An advanced balancing skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:

“(i) Following the procedure set forth in paragraph (m), but using the weighted average of the two most recent United States average weekly survey prices announced by the Department before the 24th day of the month, compute a nonfat solids price.
“(ii) Multiply the nonfat solids price computed in clause (i) by 9.

“(3) An advanced butterfat price per pound, rounded to the nearest one-hundredth cent, shall be calculated by computing a weighted average of the two most recent United States average AA Butter survey prices announced by the Department before the 24th day of the month, subtracting 17.15 cents from this average, and multiplying the result by 1.211.”.

(i) Announcement of Milk Prices, Component Prices, and Pricing Factors.—The Secretary shall amend section 1000.53 to read as follows:

“§ 1000.53 Announcement of milk prices, component prices, and pricing factors.

“(a) On or before the 5th day of the month, the market administrator for each Federal milk order shall announce the following prices for the preceding month:

“(1) The national average competitive milk price.

“(2) The regional competitive milk price applied to each order.

“(3) The lowest regional competitive price.

“(4) The balancing milk price.

“(5) The butterfat price.
“(6) The nonfat solids price.

“(b) On or before the 23rd day of the month, the market administrator for each Federal milk order shall announce the following prices and pricing factors for the following month:

“(1) The Class I price.

“(2) The Class I skim milk price.

“(3) The Class I butterfat price.

“(4) The minimum skim milk base price.

“(5) The minimum base price.

“(6) The advanced competitive milk price updater.

“(7) The advanced pricing factors described in §1000.50(o).”.

(j) PRODUCER PRICE DIFFERENTIAL.—The Secretary shall insert after section 1000.54 the following new sections:

“§ 1000.60 Handler’s obligation.

“For the purpose of computing a handler’s obligation to the market, the market administrator for each Federal milk order shall determine for each month the differential value of milk of each handler with respect to each of the handler’s pool plants and of each handler described in §1000.9(c) with respect to milk that was not received at a pool plant by adding the amounts computed in para-
graphs (a) through (d) and subtracting from that total amount the value computed in paragraphs (e) through (g). If the total calculated is negative, it is an obligation to the handler from the producer-settlement fund, subject to the limitation described in §1000.72(a). Receipts of nonfluid milk products that are distributed as labeled reconstituted milk for which payments are made to the producer-settlement fund of another Federal order under paragraphs (a)(4) and (d) of §1000.76 shall be excluded from pricing under this section.

“(a) Multiply the pounds of skim milk and butterfat in Class I, pursuant to §1000.44(c), by the difference between the Class I price applicable at the location of the pool plant and the minimum Class I base price.

“(b) Multiply the pounds of skim milk and butterfat in Class II, pursuant to §1000.44(c), by the share of the handler’s gross utilization described in subparagraphs (1) and (2) of §1000.40(b), and multiply this product again by 30 cents per hundredweight.

“(c) Multiply the difference between the Class I price applicable at the location of the pool plant and the minimum base price by the hundredweight of skim milk and butterfat assigned to Class I pur-
suant to § 1000.43(d) and the hundredweight of skim milk and butterfat subtracted from Class I pursuant to clauses (i) through (vi) of §1000.44(a)(3) and the corresponding step of §1000.44(b), excluding receipts of bulk fluid cream products from a plant regulated under other orders and bulk concentrated fluid milk products from pool plants, plants regulated under other orders, and unregulated supply plants.

“(d) Multiply the difference between the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat in receipts of concentrated fluid milk products assigned to Class I pursuant to §1000.43(d) and §1000.44(a)(3)(i) and the minimum base price, and the pounds of skim milk and butterfat subtracted from Class I pursuant to §1000.44(a)(8) and the corresponding step of §1000.44(b), excluding such skim milk and butterfat in receipts of fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any order is classified and
priced as Class I milk and is not used as an offset for any other payment obligation under any order.

“(e) The positive or negative value calculated pursuant to §1000.74.

“(f) Any applicable amount computed pursuant to §1030.55.

“(g) For reconstituted milk made from receipts of nonfluid milk products, multiply $1.00 by the hundredweight of skim milk and butterfat contained in receipts of nonfluid milk products that are allocated to Class I use pursuant to §1000.43(d).

“§1000.61 Computation of producer price differential.

“For each month, the market administrator for each Federal milk order shall compute a producer price differential per hundredweight. The report of any handler who has not made payments required pursuant to §1000.71 for the preceding month shall not be included in the computation of the producer price differential, and such handler’s report shall not be included in the computation for succeeding months until the handler has made full payment of outstanding monthly obligations. Subject to the conditions in this section, the market administrator shall compute the producer price differential in the following manner:
“(a) Combine into one total the values computed pursuant to §1000.60 for all handlers required to file reports prescribed in §______.30 of the order.

“(b) Add an amount equal to the minus location adjustments, and subtract an amount equal to the plus location adjustments computed pursuant to §1000.75 and as applied in §1000.72(b).

“(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund.

“(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

“(1) The total hundredweight of producer milk.

“(2) The total hundredweight for which a value is computed pursuant to §1000.60(d).

“(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d). The result rounded to the nearest cent, if positive, shall be known as the producer price differential for the month. If the result is negative, the producer price differential shall be zero.
§ 1000.62 Announcement of producer price differential

(a) On or before the 11th day after the end of the month, the market administrator for each Federal milk order shall announce the following prices and information:

(1) The producer price differential.

(2) The average butterfat content of producer milk.

(b) If the final date specified in paragraph (a) falls on a Saturday, Sunday, or national holiday, the market administrator may have up to two additional business days to announce the producer price differential and the statistical uniform price.”.

(k) PRODUCER-SETTLEMENT FUND.—The Secretary shall amend section 1000.70 to read as follows:

§ 1000.70 Producer-settlement fund.

(a) The market administrator for each Federal milk order shall establish and maintain a separate fund known as the producer-settlement fund—

(1) into which the market administrator shall deposit all payments made by handlers pursuant to §1000.71, §1000.76, and §1000.77; and

(2) out of which the market administrator shall make all payments pursuant to §1000.72 and §1000.77.
“(b) Payments due any handler shall be offset by any payments due from that handler.”.

(l) ADDITIONAL PROVISIONS APPLICABLE TO ALL ORDERS.—The Secretary shall insert after section 1000.70 the following new sections:

“§ 1000.71 Payments to the producer-settlement fund.

“Each handler shall make a payment to the producer-settlement fund established pursuant to §1000.70 in a manner that provides receipt of the funds by the market administrator no later than the 12th day after the end of the month (except as provided in §1000.90). Payment shall be the amount, if positive, equal to the total obligation of the handler to the market for the month as determined pursuant to §1000.60.

“§ 1000.72 Payments from the producer-settlement fund.

“No later than one day after the date of payment receipt required under §1000.71, the market administrator shall pay as follows:

“(a) To each handler, the amount, if negative, equal to the total obligation of the handler to the market for the month as determined pursuant to §1007.60. If, at such time and after all payments have been received pursuant to §1000.71, the balance in the producer-settlement fund is insufficient
to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments.

“(b) To each handler described in §1000.9(e), and to each producer for whom such a handler is not authorized to collect payment, for producer milk as defined in §_______ .13 of each Federal milk order, the producer price differential, adjusted pursuant to §1000.75 but so that the producer price differential in no location shall be less than zero.

“§ 1000.73 Payments to producers and to cooperative associations.

“Each handler shall have the following payment obligations with respect to producer milk and with respect to Class I transfers from a cooperative association:

“(a) Each handler that is not paying a cooperative association for producer milk shall pay each producer as follows:

“(1) PARTIAL PAYMENT.—For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that the payment is received by the producer on or before the 26th day of the month (except as provided in §1000.90) for milk received during the first 15 days of the
month, at not less than the minimum base price
for estimated Class I producer milk, and at an
estimated market price for other producer milk,
both adjusted for proper deductions authorized
in writing by the producer.

“(2) **Final Payment.**—For Class I milk
received during the month, a payment com-
puted as provided in this subparagraph shall be
made so that the payment is received by each
producer one day after the payment date re-
quired in §1000.72, and subject to the require-
ment of paragraph (f):

“(i) **Multiply** the hundredweight of
Class I producer skim milk received times
the minimum base skim milk price for the
month.

“(ii) **Multiply** the pounds of Class I
butterfat received times the advanced but-
terfat price for the month.

“(iii) Add the amounts computed
under clauses (i) and (ii), and from that
sum:

“(A) Subtract the partial pay-
ments made for Class I producer milk,
including those pursuant to subparagraph (1).

“(B) Subtract the deduction for marketing services pursuant to §1000.86.

“(C) Add or subtract for errors made in previous payments to the producer.

“(D) Subtract proper deductions authorized in writing by the producer.

“(b) One day before partial and final payments are due pursuant to paragraph (a), each handler shall pay a cooperative association for milk received as follows:

“(1) Partial payment to a cooperative association for bulk milk received directly from producers’ farms. For bulk milk (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk) received during the first 15 days of the month from a cooperative association in any capacity, except as the operator of a pool plant, the payment shall be equal to no less than the min-
imum base price for estimated Class I producer milk, and an estimated market price for all other producer milk.

“(2) Partial payment to a cooperative association for milk transferred from its pool plant. For bulk fluid milk products and bulk fluid cream products received during the first 15 days of the month from a cooperative association in its capacity as the operator of a pool plant, the partial payment shall be at the pool plant operator’s estimated use value of the skim milk and butterfat at the receiving plant’s location.

“(3) Final payment to a cooperative association for milk transferred from its pool plant. For bulk Class I transfers of fluid milk products and bulk fluid cream products received during the month from a cooperative association in its capacity as the operator of a pool plant, the final payment shall be the classified value of such milk as determined by multiplying the pounds of skim milk and butterfat assigned to Class I pursuant to §1000.44 by the minimum skim base price and the advanced butterfat price, respectively, for the month, and
subtracting from this sum the partial payment made pursuant to subparagraph (2).

“(4) Final payment to a cooperative association for bulk milk received directly from producers’ farms. For bulk milk received from a cooperative association during the month, including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect payment for their milk, the final payment for such milk shall be an amount equal to the sum of the individual payments otherwise payable for such milk pursuant to subparagraph (2).

“(c) If a handler claims that a required payment to a producer cannot be made because the producer is deceased or cannot be located, or because the cooperative association or its lawful successor or assignee is no longer in existence, the payment shall be made to the producer-settlement fund, and in the event that the handler subsequently locates and pays the producer or a lawful claimant, or in the event that the handler no longer exists and a lawful claim is later established, the market administrator shall make the required payment from the producer settle-
ment fund to the handler or to the lawful claimant as the case may be.

“(d) In making payments to producers pursuant to this section, each pool plant operator shall furnish each producer, except a producer whose milk was received from a cooperative association described in paragraphs (a) or (c) of §1000.9, a supporting statement in such form that it may be retained by the recipient which shall show:

“(1) The name, address, Grade A identifier assigned by a duly constituted regulatory agency, and the payroll number of the producer.

“(2) The month and dates that milk was received from the producer, including the daily and total pounds of milk received.

“(3) The total pounds of butterfat in the producer’s milk.

“(4) The minimum rate or rates at which payment to the producer is required pursuant to this order.

“(5) The rate used in making payment if the rate is other than the applicable minimum rate.
“(6) The amount, or rate per hundred-weight, and nature of each deduction claimed by the handler.

“(7) The net amount of payment to the producer or cooperative association.

“(e) For the purposes of this section, Class I producer milk means producer milk receipts times each plant’s Class I use percentage, calculated to the nearest tenth of a percent, pro rata to each source.

“(f) Satisfaction of the minimum payment requirements under this section shall be determined by the market administrator and, for pool distributing plants, must be in addition to the payment of market value for all other receipts, as determined by the market administrator, but not less than the lowest regional competitive pay price, and made by the same date on which other minimum payments are due.

“§ 1000.74 Skim milk balancing credit.

“Subject to the limitation specified in §1000.72(a), each pool handler of Class II producer milk defined in §1000.40(b)(4) shall receive from the producer-settlement fund a credit equal to the amount calculated in paragraph (c), if positive, or contribute to the pool, if negative.
“(a) Multiply the pounds of skim milk in Class II, pursuant to §1000.44(a), by the share of the handler’s gross utilization of skim milk described in §1000.40(b)(4).

“(b) Subtract the balancing milk price from the regional competitive milk price. This is the skim balancing credit.

“(c) Multiply the volume calculated in paragraph (a) by the credit calculated in paragraph (b).

“§1000.75 Plant location adjustments for producer milk and nonpool milk.

“For purposes of making payments for producer milk and nonpool milk, a plant location adjustment shall be determined by subtracting the Class I price specified in §1000.51 from the Class I price at the plant’s location. The difference, plus or minus as the case may be, shall be used to adjust the payments required pursuant to §1000.72 and §1000.76.

“§1000.76 Payments by a handler operating a partially regulated distributing plant.

“On or before the 25th day after the end of the month (except as provided in §1000.90), the operator of a partially regulated distributing plant, other than a plant that is subject to market-wide pooling of producer returns under the milk classification and pricing program of a
State government, shall pay to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) or, if the handler submits the information specified in §1111.30(b) and §1111.31(b) of the order, the handler may elect to pay the amount computed pursuant to paragraph (b). A partially regulated distributing plant that is subject to market-wide pooling of producer returns under the milk classification and pricing program of a State government shall pay the amount computed pursuant to paragraph (c).

“(a) The payment under this paragraph shall be an amount resulting from the following computations:

“(1) From the plant’s route disposition in the marketing area:

“(i) Subtract receipts of fluid milk products classified as Class I milk from pool plants, plants fully regulated under other Federal milk orders, and handlers described in §1000.9(c), except those receipts subtracted under a similar provision of another Federal milk order.

“(ii) Subtract receipts of fluid milk products from another nonpool plant that is not a plant fully regulated under an-
other Federal order to the extent that an
equivalent amount of fluid milk products
disposed of to the nonpool plant by han-
dlers fully regulated under any Federal
order is classified and priced as Class I
milk and is not used as an offset for any
payment obligation under any order.

“(iii) Subtract the pounds of reconsti-
tuted milk made from nonfluid milk prod-
ucts that are disposed of as route disposi-
tion in the marketing area.

“(2) Multiply the remaining pounds by any
positive amount by which the difference be-	ween the Class I price and the minimum base
price exceeds the producer price differential,
both values to be applicable at the location of
the partially regulated distributing plant.

“(3) Unless the payment option described
in paragraph (d) is selected, add the amount
obtained from multiplying the pounds of labeled
reconstituted milk included in paragraph
(a)(1)(iii) by any positive difference between the
Class I price applicable at the location of the
partially regulated distributing plant (less $1.00
if the reconstituted milk is labeled as such) and
the minimum base price.

“(b) The payment under this paragraph shall be the amount resulting from the following computations:

“(1) Determine the value that would have been computed pursuant to §1000.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

“(i) Fluid milk products and bulk fluid cream products received at the plant from a pool plant, a plant fully regulated under another Federal milk order, and handlers described in §1000.9(c) and §1135.11 shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant.

“(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or a plant fully regulated under another Federal order shall be classified at the partially regulated distributing plant in
the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from the pool plant and plants fully regulated under other Federal orders that are classified in the corresponding class pursuant to clause (i). Any such transfers remaining after the above allocation which are in Class I and for which an obligation is computed pursuant to §1000.60 for the partially regulated distributing plant shall be obliged at the producer price differential of the respective order regulating the handling of milk at the receiving plant, with such producer price differential adjusted to the location of the nonpool plant (but not to be less than zero).

“(iii) If the operator of the partially regulated distributing plant so requests, the handler’s obligation to the market determined pursuant to § 1000.60 shall include a value determined for each nonpool plant that is not a plant fully regulated
under another Federal order which serves as a supply plant for the partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of section §110.7(c) of the order subject to the following conditions:

“(A) The operator of the partially regulated distributing plant submits with its reports filed pursuant to §110.30(b) and §110.31(b) of the order similar reports for each such nonpool supply plant.

“(B) The operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at the plant which are made available if requested by the market administrator for verification purposes.

“(C) The handler’s obligation to the market determined pursuant to §1000.60 for the unregulated supply
plant shall be determined in the same
manner prescribed for computing the
obligation of the partially regulated
distributing plant.

“(2) From the partially regulated distrib-
uting plant’s obligation to the market computed
pursuant to subparagraph (1), subtract pay-
ments by the operator of the partially regulated
distributing plant to the producer-settlement
fund of another Federal milk order under which
the plant is also a partially regulated distrib-
uting plant and, if subparagraph (1)(C) applies,
payments made by the operator of the nonpool
supply plant to the producer-settlement fund of
any order.

“(c) The operator of a partially regulated dis-
tributing plant that is subject to market-wide pool-
ing of returns under a milk classification and pricing
program that is imposed under the authority of a
State government shall pay on or before the 25th
day after the end of the month (except as provided
in §1000.90) to the market administrator for the
producer-settlement fund an amount computed as
follows:
“(1) After completing the computations described in clauses (i) and (ii) of paragraph (a)(1), determine the value of the remaining pounds of fluid milk products disposed of as route disposition in the marketing area by multiplying the hundredweight of such pounds by the amount, if greater than zero, calculated under subparagraph (2).

“(2) Subtract the State program’s class prices applicable to such products at the plant’s location from the Federal order Class I price applicable at the location of the plant.

“(d) Any handler may elect partially regulated distributing plant status for any plant with respect to receipts of nonfluid milk ingredients that are reconstituted for fluid use. Payments may be made to the producer-settlement fund of the order regulating the producer milk used to produce the nonfluid milk ingredients at the positive difference between the Class I price applicable under the other order at the location of the plant where the nonfluid milk ingredients were processed and the minimum base price. This payment option shall apply only if a majority of the total milk received at the plant that processed the nonfluid milk ingredients is regulated under one
or more Federal orders and payment may only be made to the producer-settlement fund of the order pricing a plurality of the milk used to produce the nonfluid milk ingredients. This payment option shall not apply if the source of the nonfluid ingredients used in reconstituted fluid milk products cannot be determined by the market administrator.”.

SEC. 312. CROSS REFERENCES TO NEW FEDERAL MILK MARKETING ORDER GENERAL PROVISIONS.

(a) Cross References.—For each section of title 7, Code of Federal Regulations, listed in the first column of the table in subsection (b), the Secretary of Agriculture shall use the expedited amendment process provided by section 321 to amend the section—

(1) by striking the text of the section and inserting “See §________”, with the blank filled in with the number of the section listed on the same line in the second column of the table; and

(2) in the case of each section in the first column ending with “.74”, which as of the date of the enactment of this Act is reserved, by inserting “Skim milk balancing credit.” as the section heading.

(b) Table.—The table referred to in subsection (a) is as follows:
Title 7, Code of Federal Regulations, Amendments

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1 SEC. 313. CONFORMING AMENDMENTS TO REGIONAL FEDERAL MILK MARKETING ORDERS.

(a) IN GENERAL.—Using the expedited amendment process provided by section 321, the Secretary of Agriculture shall execute amendments required by this section to certain provisions that apply to specific Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as contained in chapter X of title 7, Code of Federal Regulations.
(b) NORTHEAST MARKETING AREA.—

(1) POOL PLANT.—The Secretary shall amend section 1001.7(e)(2) by striking “or Class II products” and inserting “products or products identified in subparagraphs (1) and (2) of §1000.40(b)”.

(2) CLASS I DIFFERENTIAL AND PRICE.—The Secretary shall amend section 1001.51—

(A) by inserting before the period at the end of the section heading the following: “and regional competitive price”; and

(B) by adding at the end the following new sentence: “The regional competitive milk price applicable to this order shall be the regional competitive milk price for Region 1, as defined in section 274(e)(1) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637e(e)(1)), adjusted to 3.5 percent butterfat.”.

c) APPALACHIAN MARKETING AREA.—

(1) POOL PLANT.—The Secretary shall amend section 1005.7(e)(2) by striking “or Class II products” and inserting “products or products identified in subparagraphs (1) and (2) of §1000.40(b)”.

(2) CLASS I DIFFERENTIAL, ADJUSTMENTS TO CLASS I PRICES, AND CLASS I PRICE.—The Secretary shall amend section 1005.51—
(A) in the section heading, by striking “and Class I price” and inserting the following: “Class I price, and regional competitive price”; and

(B) by adding at the end the following:

“(c) The regional competitive milk price applicable to this Federal order shall be the weighted average of the regional competitive milk prices collected for Regions 1, 4, and 5, as defined in section 274(e) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637c(e)), adjusted to 3.5 percent butterfat.”.

(3) Payments to producers and cooperative associations.—The Secretary shall amend section 1005.73 to read as follows:

“§1005.73 Payments to producers and cooperative associations.

“For the purposes of §1000.73(f), with respect to final payment to producers and cooperative associations, market value for other-than-Class I receipts shall mean the lowest regional competitive pay price for the month, as defined in §1000.50(g).”.

(d) Florida Marketing Area.—

(1) Pool plant.—The Secretary shall amend section 1006.7(e)(2) by striking “or Class II prod-
ucts” and inserting “products or products identified in subparagraphs (1) and (2) of §1000.40(b)”.

(2) Class I differential, adjustments to Class I prices, and Class I price.—The Secretary shall amend section 1006.51—

(A) in the section heading, by striking “and Class I price” and inserting the following: “Class I price, and regional competitive price”; and

(B) by adding at the end the following:

“(c) The regional competitive milk price applicable to this Federal order shall be the weighted average of the regional competitive milk prices collected for Regions 1, 4, and 5, as defined in section 274(e) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637c(e)), adjusted to 3.5 percent butterfat.”.

(3) Payments to producers and cooperative associations.—The Secretary shall amend section 1006.73 to read as follows:

“§1006.73 Payments to producers and cooperative associations.

“(a) For the purposes of §1000.73(f), with respect to final payment to producers and cooperative associations, market value for other-than-Class I receipts shall
mean the lowest regional competitive pay price for the month, as defined in §1000.50(g).

“(b) In addition to partial payments required pursuant to §1000.73, each handler shall have the following payment obligations, with respect to producer milk and Class I transfers from a cooperative association:

“(1) Each handler that is not paying a cooperative association for producer milk shall pay each producer who has not discontinued shipments as of the last day of the month, payment shall be made so that it is received by the producer on or before the 5th day of the following month (except as provided in §1000.90) for milk received from the 16th day of the month to the last day of the month, at not less than the minimum base price for estimated Class I producer milk, and at an estimated market price for other producer milk, both adjusted for proper deductions authorized in writing by the producer.

“(2) One day before partial payment is due pursuant to paragraph (a), each handler shall pay a cooperative association for milk received directly from producers’ farms (including the milk of producers who are not members of such association and who the market administrator determines have authorized the cooperative association to collect pay-
ment for their milk), received from the 16th day of
the month to the last day of the month, at not less
than the minimum base price for estimated Class I
producer milk, and at an estimated market price for
all other producer milk.”.

(e) Southeast Marketing Area.—

(1) Pool Plant.—The Secretary shall amend
section 1007.7(e)(2) by striking “or Class II prod-
ucts” and inserting “products or products identified
in subparagraphs (1) and (2) of §1000.40(b)”.

(2) Class I Differential, Adjustments to
Class I Prices, and Class I Price.—The Secretary
shall amend section 1007.51—

(A) in the section heading, by striking
“and Class I price” and inserting the fol-
lowing: “Class I price, and regional
competitive price”; and

(B) by adding at the end the following:
“(c) The regional competitive milk price applicable to
this Federal order shall be the weighted average of the
regional competitive milk prices collected for Regions 1,
4, and 5, as defined in section 274(e) of the Agricultural
Marketing Act of 1946 (7 U.S.C. 1637e(e)), adjusted to
3.5 percent butterfat.”.
(3) **Payments to Producers and Cooperative Associations.**—The Secretary shall amend section 1007.73 to read as follows:

```
§ 1007.73 Payments to producers and cooperative associations.

“For the purposes of §1000.73(f), with respect to final payment to producers and cooperative associations, market value for other-than-Class I receipts shall mean the lowest regional competitive pay price for the month, as defined in §1000.50(g).”.
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(f) **Upper Midwest Marketing Area.**—

(1) **Pool Plants.**—The Secretary shall amend section 1030.7(e)(2)—

(A) by striking “process Class I or Class II products” and inserting “process Class I products or products identified in subparagraphs (1) and (2) of §1000.40(b)”;

(B) by striking “in Class I or Class II products” and inserting “in Class I products or products identified in subparagraphs (1) and (2) of §1000.40(b)”.

(2) **Class I Differential and Price.**—The Secretary shall amend section 1030.51—
(A) by inserting before the period at the end of the section heading the following: “and \textbf{regional competitive price}”; and

(B) by adding at the end the following new sentence: “The regional competitive milk price applicable to this order shall be the regional competitive milk price for Region 3, as defined in section 274(e)(3) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637c(e)(3)), adjusted to 3.5 percent butterfat.”.

(g) \underline{CENTRAL MARKETING AREA.—}

(1) \underline{POOL PLANTS.—}\ The Secretary shall amend section 1032.7(e)(2)—

(A) by striking “process Class I or Class II products” and inserting “process Class I products or products identified in subparagraphs (1) and (2) of §1000.40(b)”; and

(B) by striking “in Class I or Class II products” and inserting “in Class I products or products identified in subparagraphs (1) and (2) of §1000.40(b)”.

(2) \underline{CLASS I DIFFERENTIAL AND PRICE.—}\ The Secretary shall amend section 1032.51—
(A) by inserting before the period at the end of the section heading the following: “and **regional competitive price**”; and

(B) by adding at the end the following new sentence: “The regional competitive milk price applicable to this order shall be the regional competitive milk price for Region 4, as defined in section 274(e)(4) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637c(e)(4)), adjusted to 3.5 percent butterfat.”.

(h) **MIDWEST MARKETING AREA.**—The Secretary shall amend section 1033.51—

(1) by inserting before the period at the end of the section heading the following: “**and regional competitive price**”; and

(2) by adding at the end the following new sentence: “The regional competitive milk price applicable to this order shall be the regional competitive milk price for Region 1, as defined in section 274(e)(1) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637c(e)(1)), adjusted to 3.5 percent butterfat.”.

(i) **PACIFIC NORTHWEST MARKETING AREA.**—The Secretary shall amend section 1124.51—
(1) by inserting before the period at the end of the section heading the following: “and regional competitive price”; and

(2) by adding at the end the following new sentence: “The regional competitive milk price applicable to this order shall be the regional competitive milk price for Region 5, as defined in section 274(e)(5) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637e(e)(5)), adjusted to 3.5 percent butterfat.”.

(j) SOUTHWEST MARKETING AREA.—

(1) POOL PLANT.—The Secretary shall amend section 1126.7(e)(2) by striking “or Class II products” and inserting “products or products identified in subparagraphs (1) and (2) of §1000.40(b)”.

(2) CLASS I DIFFERENTIAL AND PRICE.—The Secretary shall amend section 1126.51—

(A) by inserting before the period at the end of the section heading the following: “and regional competitive price”; and

(B) by adding at the end the following new sentence: “The regional competitive milk price applicable to this order shall be the regional competitive milk price for Region 5, as defined in section 274(e)(5) of the Agricultural Mar-
marketing Act of 1946 (7 U.S.C. 1637c(e)(5)), adjusted to 3.5 percent butterfat.”.

(k) Arizona Marketing Area.—

(1) Pool Plants.—The Secretary shall amend section 1131.7(e)(2)—

(A) by striking “process Class I or Class II products” and inserting “process Class I products or products identified in subparagraphs (1) and (2) of §1000.40(b)”; and

(B) by striking “in Class I or Class II products” and inserting “in Class I products or products identified in subparagraphs (1) and (2) of §1000.40(b)”.

(2) Class I Differential and Price.—The Secretary shall amend section 1131.51—

(A) by inserting before the period at the end of the section heading the following: “and regional competitive price”; and

(B) by adding at the end the following new sentence: “The regional competitive milk price applicable to this order shall be the regional competitive milk price for Region 5, as defined in section 274(e)(5) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637c(e)(5)), adjusted to 3.5 percent butterfat.”.
Subtitle B—Expedited Amendment Process

SEC. 321. EXPEDITED AMENDMENT PROCESS.

(a) Execution of Amendments.—Not later than 210 days after the date of the enactment of this Act, the Secretary of Agriculture shall execute the amendments required to be made by subtitle A. Execution of the amendments shall be made without regard to—

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

(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;

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

(4) section 8c(17) of the Agricultural Adjustment Act (7 U.S.C. 608c(17)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, relating to amendments to Federal milk marketing orders; and

(5) section 8c(19) of such Act (7 U.S.C. 608c(19)), relating to a referendum under such Act.
(b) CONGRESSIONAL REVIEW OF AGENCY RULE-MAKING.—In executing the amendments, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 322. ADDITIONAL REGULATIONS.

(a) USE OF INFORMAL RULEMAKING.—To the extent that the Secretary determines that additional amendments to Federal milk marketing orders are necessary to bring other provisions of such Federal milk marketing order into conformance with the amendments required to be executed by subtitle A, the Secretary shall use the notice and comment procedures in section 553 of title 5, United States Code.

(b) TIME LIMITATIONS.—To ensure compliance with the deadlines imposed by sections 321(a) and 323(a), the Secretary shall allow no more than 60 days for comment on regulations prescribed under subsection (a).

(c) EXCLUSIONS.—Paragraphs (2) through (5) of section 321(a) shall apply to the regulations prescribed under subsection (a).

SEC. 323. EFFECTIVE DATE.

(a) IMPLEMENTATION.—The amendments to Federal milk marketing orders required by subtitle A and prescribed under section 322(a) shall become effective on the
first day of the month following the one-year anniversary date of the enactment of this Act.

(b) Effect of Failure to Execute Amendments.—If the Secretary fails to execute the amendments required by subtitle A or otherwise fails to meet the deadlines imposed by subsection (a) and section 321(a), the amendments to the Federal milk marketing orders required by subtitle A shall nonetheless become effective and have the force of law as of the effective date provided under subsection (a).

SEC. 324. SUBSEQUENT AMENDMENT OF FEDERAL MILK MARKETING ORDERS.

After the effective date specified in section 323(a), nothing in this title affects the authority of the Secretary to amend Federal milk marketing orders or the ability of producers to seek such amendments, in accordance with the formal rulemaking process provided by section 8c(17) of the Agricultural Adjustment Act (7 U.S.C. 608c(17)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.
Subtitle C—Dairy Market Price
Surveys and Other Matters

SEC. 331. DEFINITION OF DAIRY PRODUCTS FOR DAIRY PRODUCT MANDATORY REPORTING.

Section 272(1)(A) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637a(1)(A)) is amended by striking “Class III and Class IV milk” and inserting “and other payment obligations”.

SEC. 332. SURVEYS OF MARKET MILK PRICES.

Subtitle C of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637 et seq.) is amended by adding at the end the following new section:

“SEC. 274. SURVEYS OF MARKET MILK PRICES.

“(a) MONTHLY SURVEYS OF CHEESE PLANTS.—

“(1) SURVEYS REQUIRED; PARTICIPANTS.—The Secretary shall conduct monthly surveys of each cheese plant in the United States that—

“(A) is primarily engaged in cheese manufacturing and pays competitive milk prices;

“(B) receives more than 250,000 pounds of milk per day on average during a month;

“(C) is not more than 50 percent owned by a dairy farmer cooperative or cooperatives;

“(D) is not operated by a dairy farmer cooperative; and
“(E) is not subject to minimum payment requirements for manufacturing milk under Federal or State law.

“(2) MANNER OF CONDUCTING SURVEYS.—The Secretary shall prescribe the manner and time in which cheese plants described in paragraph (1) shall report competitive milk prices. In particular, the Secretary shall ensure that the competitive milk prices reported reflect the following:

“(A) Deductions for producer marketing costs, including hauling, mandatory promotion assessments, and mandatory service assessments of the market administrators of Federal milk marketing orders.

“(B) Deductions specifically authorized by the producer for payments to third parties.

“(b) CONTENTS OF SURVEYS.—Cheese plants described in subsection (a)(1) shall provide information regarding the prices that it paid for milk during a month. The monthly information shall include the following:

“(1) The total pounds of milk received directly from each farm, or from another milk handler in a form unmodified since received from the farm, purchased during the month.
“(2) The total pounds of butterfat in such milk purchased during the month.

“(3) The price paid, in dollars, for such purchases, net of the deductions identified in subsection (a)(2).

“(c) PUBLICATION OF RESULTS.—

“(1) In general.—On or before the 5th day of each month, the Secretary shall publish average competitive milk prices by region, as established by subsection (e).

“(2) Inclusion of specific information.—The information published under paragraph (1) shall include—

“(A) a national average competitive milk price and the volume of milk surveyed for each region;

“(B) a regional competitive milk price for each region for which there are at least four cheese plants described in subsection (a)(1) reporting; and

“(C) the volume of milk surveyed in those regions referred to in subparagraph (B).

“(d) Administration, Confidentiality, and Enforcement.—Section 273(c) shall apply as necessary to
ensure compliance with, and otherwise carry out, this sec-

tion.

“(e) SURVEY REGIONS.—For the purpose of col-
lecting and publishing information on competitive milk
prices, the Secretary shall utilize the following regions:

“(1) REGION 1.—Region 1 shall consist of the
Northeast milk marketing order area, the Mideast
milk marketing area (as defined in section 1001.2 of
title 7, Code of Federal Regulations, as of January
1, 2011), all other counties of the State of New
York, all counties of the State of Maine, and all un-
regulated counties of the States of Pennsylvania,
Maryland, Ohio, West Virginia, Indiana, Kentucky,
and Virginia as of January 1, 2011.

“(2) REGION 2.—Region 2 shall consist of all of
the Appalachian milk marketing area, except for
counties in the States of Kentucky, Indiana, and
West Virginia, all of the Florida milk marketing
area (as defined in section 1006.2 of title 7, Code
of Federal Regulations, as of January 1, 2011), and
all of the Southeast milk marketing area (as defined
in section 1007.2 of title 7, Code of Federal Regula-
tions, as of January 1, 2011), except for counties in
the States of Missouri and Arkansas.
“(3) REGION 3.—Region 3 shall consist of all of the Upper Midwest milk marketing area (as defined in section 1030.2 of title 7, Code of Federal Regulations, as of January 1, 2011) and all unregulated counties in the State of North Dakota as of January 1, 2011.

“(4) REGION 4.—Region 4 shall consist of all of the Central milk marketing area (as defined in section 1032.2 of title 7, Code of Federal Regulations, as of January 1, 2011), all counties in the States of Missouri and Arkansas, and all unregulated counties in the States of South Dakota and Nebraska as of January 1, 2011.

“(5) REGION 5.—Region 5 shall consist of all of the Southwest milk marketing area (as defined in section 1126.2 of title 7, Code of Federal Regulations, as of January 1, 2011), all of the Arizona milk marketing area (as defined in section 1131.2 of title 7, Code of Federal Regulations, as of January 1, 2011), all of the Pacific Northwest milk marketing area (as defined in section 1124.2 of title 7, Code of Federal Regulations, as of January 1, 2011), the unregulated counties in the State of Colorado as of January 1, 2011, and all other counties

“(f) FUNDING.—The Secretary may use funds collected from assessments of processors under Federal milk marketing orders to conduct the weekly dairy product price surveys and monthly competitive milk price surveys, including that portion of the salaries the staff of milk marketing order administrators incurred in conducting and auditing such surveys, and any attendant costs of conducting and auditing such surveys.”.

SEC. 333. DEVELOPMENT OF EFFECTIVE BALANCING PROGRAMS FOR MILK MARKETS.

(a) ADVANCED NOTICE OF PROPOSED RULE-MAKING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall publish in the Federal Register an Advanced Notice of Proposed Rulemaking seeking public comment on, and proposals recommending, effective programs that address the issues of the costs of balancing milk markets through the use of transportation credits, including intra-order credits. The Secretary shall solicit comments and proposals that—

(1) address the market’s balancing needs;

(2) target support to those producers and handlers who provide balancing services; and
(3) formulate compensation that is in line with the costs of providing the services and the benefits to the market of the services.

(b) INFORMAL RULEMAKING.—Not later than one year after the date of the enactment of this Act, the Secretary shall—

(1) initiate informal rulemaking pursuant to section 553 of title 5, United States Code, by publishing in the Federal Register a proposed rule to implement an effective balancing program; or

(2) publish notice of the reasons that such a rulemaking is not to be initiated.

TITLE IV—REPEAL OF SUPERSEDED PROVISIONS

SEC. 401. 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. 402. REPEAL OF PERMANENT PRICE SUPPORT AUTHORITY FOR MILK.

(a) Repeal.—Section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended—

(1) in subsection (a), by striking “milk,”; and

(2) by striking subsections (c) and (d).

(b) Exclusion From Price Support for Other Nonbasic Agricultural Commodities.—Section 301 of the Agricultural Act of 1949 (7 U.S.C. 1447) is amended by inserting “(other than milk)” after “agricultural commodity”.

SEC. 403. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 1, 2012.