

[DISCUSSION DRAFT]112TH CONGRESS
1ST SESSION**H. R.** _____

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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “_____ Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 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. 202. Dairy market stabilization program.
- 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. 210. Program board.
- 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.

1 **TITLE I—DAIRY PRODUCER**
2 **MARGIN PROTECTION PROGRAM**
3 **SEC. 101. DEFINITIONS.**

4 In this title:

5 (1) **ACTUAL DAIRY PRODUCER MARGIN.**—The
6 term “actual dairy producer margin” means the dif-
7 ference between the all-milk price and the average
8 feed cost, as calculated under section 102(d).

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

15 (3) **AVERAGE FEED COST.**—The term “average
16 feed cost” means the average cost of feed used by
17 a dairy operation to produce a hundredweight of
18 milk, determined under section 102(c) using the sum
19 of the following:

1 (A) The product determined by multiplying
2 1.192 by the price of corn per bushel.

3 (B) The product determined by multiplying
4 0.00817 by the price of soybean meal per ton

5 (C) The product determined by multiplying
6 0.0152 by the price of alfalfa hay per ton.

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

13 (5) DAIRY PRODUCER.—The term “dairy pro-
14 ducer” means an individual or entity that directly or
15 indirectly (as determined by the Secretary)—

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

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

24 (6) PRODUCTION HISTORY.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), the term “production his-
3 tory”, with respect to a dairy producer, means
4 the highest annual milk production of the dairy
5 producer during any one of the three calendar
6 years immediately preceding the dairy pro-
7 ducer’s registration with the Secretary for par-
8 ticipation in the program.

9 (B) NEW PRODUCERS.—If a dairy pro-
10 ducer has been in operation for less than a
11 year, the Secretary shall determine the produc-
12 tion history of the dairy producer by extrapo-
13 lating the actual milk production for the
14 months the dairy producer has been in oper-
15 ation to a yearly production amount.

16 (7) PROGRAM.—The term “program” means
17 the dairy producer margin protection program re-
18 quired by this title.

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

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

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

4 **SEC. 102. DAIRY PRODUCER MARGIN PROTECTION PRO-**
5 **GRAM.**

6 (a) PROGRAM REQUIRED; PURPOSE.—The Secretary
7 shall establish and administer a dairy producer margin
8 protection program for the purpose of protecting dairy
9 producer income through the provision of basic margin
10 protection payments and, if purchased by a dairy pro-
11 ducer, supplemental margin protection payments when ac-
12 tual dairy producer margins are less than the threshold
13 levels for such payments.

14 (b) ESTIMATION OF PROJECTED DAIRY PRODUCER
15 MARGIN.—

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

20 (A) an estimate of the average all-milk
21 price, per hundredweight of milk, for such pe-
22 riod; and

23 (B) an estimate of average feed cost for
24 such period.

1 (2) PUBLICATION.—The Secretary shall publish
2 the estimate of the projected dairy producer margin
3 in the Federal Register as soon as practicable after
4 the date of the enactment of this Act, but in no case
5 later than 90 days after that date.

6 (c) CALCULATION OF AVERAGE FEED COST.—Not
7 later than the fifth day after the end of each consecutive
8 two-month period, the Secretary shall calculate the na-
9 tional average feed cost for that consecutive two-month pe-
10 riod using the following data:

11 (1) The price of corn for each month of that
12 consecutive two-month period shall be the price re-
13 ceived during that month by farmers in the United
14 States for corn, as reported by the National Agricul-
15 tural Statistics Service.

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

20 (3) The price of alfalfa hay for each month of
21 that consecutive two-month period shall be the price
22 received during that month by farmers in the United
23 States for alfalfa hay, as reported by the National
24 Agricultural Statistics Service.

1 (d) CALCULATION OF ACTUAL DAIRY PRODUCER
2 MARGIN.—The Secretary shall calculate the actual dairy
3 producer margin for each consecutive two-month period by
4 subtracting—

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

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

10 **SEC. 103. ELIGIBILITY AND REGISTRATION OF DAIRY PRO-**
11 **DUCERS FOR PROGRAM.**

12 (a) ELIGIBILITY.—All dairy producers in the United
13 States are eligible to participate in the program, except
14 that a dairy producer must be registered with the Sec-
15 retary before the producer may—

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

18 (2) if purchased by the dairy producer, supple-
19 mental margin protection payments under section
20 106.

21 (b) REGISTRATION.—

22 (1) IN GENERAL.—The Secretary shall register
23 all interested dairy producers in the program. The
24 Secretary shall specify the manner and form by
25 which a dairy producer may register.

1 (2) EXISTING DAIRY PRODUCERS.—During the
2 one-year period beginning on the date of the enact-
3 ment of this Act, a dairy producer who is actively
4 engaged in a dairy operation as of such date may
5 register with the Secretary—

6 (A) to receive basic margin protection; and

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

9 (3) NEW ENTRANTS.—A dairy producer who
10 has no existing interest in a dairy operation as of
11 the date of the enactment of this Act, but who, after
12 such date, establishes a new dairy operation, may
13 register with the Secretary during the 180-day pe-
14 riod beginning on the date on which the dairy oper-
15 ation first markets milk commercially—

16 (A) to receive basic margin protection; and

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

19 (4) TREATMENT OF MULTI-PRODUCER OPER-
20 ATIONS.—If a dairy operation consists of more than
21 one dairy producer, all of the dairy producers of the
22 operation shall be treated as a single dairy producer
23 for purposes of registration—

24 (A) to receive basic margin protection; and

1 (B) at the election of the producers, to
2 purchase supplemental margin protection.

3 (5) TREATMENT OF PRODUCERS WITH MUL-
4 TIPLE DAIRY OPERATIONS.—If a dairy producer op-
5 erates two or more dairy operations, each dairy op-
6 eration of the producer shall require a separate reg-
7 istration—

8 (A) to receive basic margin protection; and

9 (B) at the election of the producer, to pur-
10 chase supplemental margin protection.

11 (c) RECONSTITUTION.—The Secretary shall ensure
12 that a dairy producer does not reconstitute a dairy oper-
13 ation for the sole purpose of receiving basic margin protec-
14 tion or supplemental margin protection.

15 **SEC. 104. ESTABLISHMENT OF PRODUCTION HISTORY OF**
16 **REGISTERED DAIRY PRODUCERS.**

17 (a) ESTABLISHMENT OF PRODUCTION HISTORY.—

18 (1) ESTABLISHMENT.—When a dairy producer
19 registers with the Secretary for participation in the
20 program, the dairy producer shall provide all infor-
21 mation required by the Secretary to establish the
22 production history of the dairy operation of the pro-
23 ducer.

24 (2) DURATION.—Once the production history is
25 established for a dairy producer upon registration,

1 the production history shall not be changed for the
2 duration of the dairy producer's participation in the
3 program.

4 (b) TRANSFER OF PRODUCTION HISTORY OF EXIST-
5 ING DAIRY PRODUCERS.—

6 (1) TRANSFER BY SALE.—

7 (A) REQUEST FOR TRANSFER.—If an ex-
8 isting dairy producer, as described in section
9 103(b)(2), sells an entire dairy operation to an-
10 other party, the seller and purchaser may joint-
11 ly request that the Secretary transfer the sell-
12 er's production history to the purchaser.

13 (B) TRANSFER.—If the Secretary deter-
14 mines that the seller has sold the entire dairy
15 operation to the purchaser, the Secretary shall
16 approve the transfer, and, thereafter, the seller
17 shall have no interest in that production his-
18 tory.

19 (2) TRANSFER BY LEASE.—

20 (A) REQUEST FOR TRANSFER.—If an ex-
21 isting dairy producer, as described in section
22 103(b)(2), leases an entire dairy operation to
23 another party, the lessor and lessee may jointly
24 request that the Secretary transfer the lessor's

1 production history to the lessee for the duration
2 of the term of the lease.

3 (B) TRANSFER.—If the Secretary deter-
4 mines that the lessor has leased the entire dairy
5 operation to the lessee, the Secretary shall ap-
6 prove the transfer, and, thereafter, the lessor
7 shall have no interest in that production history
8 for the duration of the term of the lease.

9 (3) COVERAGE LEVEL.—A purchaser or lessee
10 to whom the Secretary transfers a production his-
11 tory under this subsection may not obtain a different
12 level of basic margin protection or supplemental
13 margin protection coverage than the basic margin
14 protection or supplemental margin protection cov-
15 erage held by the seller or lessor from whom the
16 purchaser or lessee obtained the production history.

17 (c) TRANSFER OF PRODUCTION HISTORY OF NEW
18 ENTRANTS.—The Secretary may not transfer the produc-
19 tion history of a dairy producer described in section
20 103(b)(3) to another person.

21 (d) MOVEMENT AND TRANSFER OF PRODUCTION
22 HISTORY.—

23 (1) MOVEMENT AND TRANSFER AUTHOR-
24 IZED.—Subject to paragraph (2), if a dairy producer
25 moves from one location to another location, the

1 dairy producer may maintain the production history
2 associated with the operation.

3 (2) NOTIFICATION REQUIREMENT.—A dairy
4 producer shall notify the Secretary of any move of
5 a dairy operation under paragraph (1).

6 (3) SUBSEQUENT OCCUPATION OF VACATED LO-
7 CATION.—A party subsequently occupying a dairy
8 operation location vacated as described in paragraph
9 (1) shall have no interest in the production history
10 previously associated with the operation at such lo-
11 cation.

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

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

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

19 (c) PAYMENT THRESHOLD.— All registered dairy
20 producers shall receive a basic margin protection payment
21 whenever the average actual dairy producer margin for a
22 consecutive two-month period is less than \$4.00 per hun-
23 dredweight of milk.

24 (d) BASIC MARGIN PROTECTION PAYMENT.—

1 (1) PAYMENT REQUIRED.—The Secretary shall
2 make a basic margin protection payment to each
3 registered dairy producer for a consecutive two-
4 month period whenever such a payment is required
5 by subsection (c) for that period.

6 (2) AMOUNT OF PAYMENT.—The basic margin
7 protection payment for the dairy operation of a
8 dairy producer for a consecutive two-month period
9 shall be determined as follows:

10 (A) The Secretary shall calculate the dif-
11 ference between the average actual dairy pro-
12 ducer margin for the consecutive two-month pe-
13 riod and \$4.00.

14 (B) The amount determined under sub-
15 paragraph (A) shall be multiplied by of the less-
16 er of the following:

17 (i) 75 percent of the production his-
18 tory of the dairy producer, divided by six.

19 (ii) The actual amount of milk pro-
20 duced by the dairy operation of the dairy
21 producer during the consecutive two-month
22 period.

23 **SEC. 106. SUPPLEMENTAL MARGIN PROTECTION.**

24 (a) ELECTION OF SUPPLEMENTAL MARGIN PROTEC-
25 TION.—At the time of program registration of a dairy pro-

1 ducer, the dairy producer may purchase supplemental
2 margin protection under the program.

3 (b) PAYMENT THRESHOLD AND PERCENTAGE OF
4 PRODUCTION HISTORY COVERED.—

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

9 (2) ELECTION OF PAYMENT THRESHOLD.—A
10 dairy producer purchasing supplemental margin pro-
11 tection may elect a coverage level that is higher, in
12 any increment of \$0.50, than the payment threshold
13 for basic margin protection specified in section
14 105(c), but not to exceed the lesser of—

15 (A) the projected dairy producer margin;

16 or

17 (B) \$8.00.

18 (3) ELECTION OF PRODUCTION HISTORY PER-
19 CENTAGE.—A dairy producer purchasing supple-
20 mental margin protection shall elect a percentage,
21 equal to not more than 90 percent nor less than 25
22 percent, of the production history of the producer to
23 be covered by supplemental margin protection.

24 (c) PRODUCER PREMIUMS.—Not later than January
25 15 of each year for which supplemental margin protection

1 is available, a dairy producer purchasing supplemental
 2 margin protection shall pay a premium equal to the prod-
 3 uct obtained by multiplying—

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

6 (2) the production history of the producer; and

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

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

9 (d) PRODUCER'S PREMIUM OBLIGATIONS.—

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

16 (2) SUBSEQUENT PREMIUMS.—Other than as
 17 provided in paragraph (1), the annual premium for
 18 a dairy producer shall be fixed at the level deter-
 19 mined under subsection (c) for each year of the pro-
 20 gram.

1 (3) LEGAL OBLIGATION.—A dairy producer who
2 elects to purchase supplemental margin protection
3 shall be legally obligated to pay the applicable pre-
4 miums for the entire period of the program, and
5 may not opt out of the program, except—

6 (A) if the dairy producer dies, the estate of
7 the deceased may cancel the supplemental mar-
8 gin protection and shall not be responsible for
9 any further premium payments; or

10 (B) if the dairy producer retires, the pro-
11 ducer may request that Secretary cancel the
12 supplemental margin protection if the producer
13 has terminated the dairy operation entirely and
14 certifies under oath that the producer will not
15 be actively engaged in any dairy operation for
16 at least the next seven years.

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

21 (A) remain legally obligated to pay the pre-
22 miums;

23 (B) repay supplemental margin protection
24 payments previously paid to the producer; and

1 (C) lose the right to receive any further
2 supplemental margin protection payments.

3 (e) SUPPLEMENTAL PAYMENT THRESHOLD.—A
4 dairy producer who has purchased supplemental margin
5 protection shall receive a payment whenever the average
6 actual dairy producer margin for a consecutive two-month
7 period is less than the coverage level elected by the dairy
8 producer under subsection (b)(2).

9 (f) SUPPLEMENTAL MARGIN PROTECTION PAY-
10 MENTS.—

11 (1) IN GENERAL.—The supplemental margin
12 protection payment for a dairy producer is in addi-
13 tion to the basic margin protection payment.

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

17 (A) The Secretary shall calculate the dif-
18 ference between the elected coverage level under
19 subsection (b)(2) and the greater of—

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

23 (ii) \$4.00.

24 (B) The amount determined under sub-
25 paragraph (A) shall be multiplied by the per-

1 centage of production history elected by the
2 dairy producer under subsection (b)(3) and by
3 the lesser of the following:

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

6 (ii) The actual amount of milk pro-
7 duced by the dairy operation of the dairy
8 producer during the consecutive two-month
9 period.

10 **SEC. 107. NO PAYMENT LIMITATIONS.**

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

16 **SEC. 108. USE OF COMMODITY CREDIT CORPORATION.**

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

20 **SEC. 109. DURATION.**

21 The Secretary shall conduct the program during the
22 period beginning on January 1, 2012, and ending on De-
23 cember 31, 2017.

1 **TITLE II—DAIRY MARKET**
2 **STABILIZATION PROGRAM**

3 **SEC. 201. DEFINITIONS.**

4 In this title:

5 (1) **ACTUAL DAIRY PRODUCER MARGIN.**—The
6 term “actual dairy producer margin” means the dif-
7 ference between the all-milk price and the average
8 feed cost, as calculated under section 203(b).

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

15 (3) **AVERAGE FEED COST.**—The term “average
16 feed cost” means the average cost of feed used by
17 a dairy operation to produce a hundredweight of
18 milk, determined under section 203(a) using the
19 sum of the following:

20 (A) The product determined by multiplying
21 1.192 by the price of corn per bushel.

22 (B) The product determined by multiplying
23 0.00817 by the price of soybean meal per ton.

24 (C) The product determined by multiplying
25 0.0152 by the price of alfalfa hay per ton.

1 (4) DAIRY PRODUCER.—The term “dairy pro-
2 ducer” means an individual or entity that directly or
3 indirectly (as determined by the Secretary)—

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

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

12 (5) HANDLER.—

13 (A) IN GENERAL.—The term “handler”
14 means a person making payment to a dairy pro-
15 ducer for milk produced in the United States
16 and marketed for commercial use.

17 (B) PRODUCER-HANDLER.—The term in-
18 cludes a producer-handler.

19 (6) PROGRAM.—The term “program” means
20 the dairy market stabilization program required by
21 this title.

22 (7) PROGRAM BASE.—The term “program
23 base”, with respect to a dairy producer means the
24 program base calculated for the producer under sec-
25 tion 202(b).

1 (8) PROGRAM BOARD.—The term “program
2 board” means the board of directors appointed by
3 the Secretary under section 210.

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

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

9 **SEC. 202. DAIRY MARKET STABILIZATION PROGRAM.**

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

16 (b) ELECTION OF PROGRAM BASE CALCULATION
17 METHOD.—

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

23 (2) CHANGE IN CALCULATION METHOD.—A
24 dairy producer may change the program base cal-
25 culation method to be used for a calendar year by

1 notifying the Secretary of the change not later than
2 January 15 of that year.

3 (3) TREATMENT OF MULTI-PRODUCER OPER-
4 ATIONS.—If a dairy operation consists of more than
5 one dairy producer, all of the dairy producers of the
6 operation shall jointly make the election under para-
7 graph (1) with respect to the operation and jointly
8 make any change to that election under paragraph
9 (2).

10 (4) TREATMENT OF PRODUCERS WITH MUL-
11 TIPLE DAIRY OPERATIONS.—If a dairy producer op-
12 erates two or more dairy operations, each dairy op-
13 eration of the producer shall require a separate elec-
14 tion under paragraph (1).

15 (5) CALCULATION METHODS.—A dairy pro-
16 ducer may elect either of the following methods for
17 calculation of the program base for the producer:

18 (A) The volume of the average monthly
19 milk marketings of the dairy producer for the
20 three months immediately preceding the an-
21 nouncement by the Secretary that the program
22 will become effective.

23 (B) The volume of the monthly milk mar-
24 ketings of the dairy producer for the same
25 month in the preceding year as the month for

1 which the Secretary has announced the pro-
2 gram will become effective.

3 **SEC. 203. CALCULATION OF AVERAGE FEED COST AND AC-**
4 **TUAL DAIRY PRODUCER MARGINS.**

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

8 (1) The price of corn for a month shall be the
9 price received during that month by farmers in the
10 United States for corn, as reported by the National
11 Agricultural Statistics Service.

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

16 (3) The price of alfalfa hay for a month shall
17 be the price received during that month by farmers
18 in the United States for alfalfa hay, as reported by
19 the National Agricultural Statistics Service.

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

24 (1) the average feed cost for that month, deter-
25 mined in accordance with subsection (a); from

1 (2) the all-milk price for that month.

2 **SEC. 204. PROGRAM THRESHOLD FOR IMPLEMENTATION**
3 **AND REDUCTION IN DAIRY PRODUCER PAY-**
4 **MENTS.**

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

10 (1) the actual dairy producer margin has been
11 \$6.00 or less per hundredweight of milk for the im-
12 mediately preceding two months; or

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

16 (b) **EFFECTIVE DATE FOR IMPLEMENTATION OF**
17 **PAYMENT REDUCTIONS.**—Reductions in dairy producer
18 payments shall commence beginning on the first day of
19 the month immediately following the announcement by the
20 Secretary under subsection (a).

21 **SEC. 205. COLLECTION OF PRODUCER MILK MARKETINGS**
22 **INFORMATION.**

23 (a) **COLLECTION BY HANDLERS.**—For each month
24 during which the program is in effect, each handler shall
25 calculate the following:

1 (b) REDUCTIONS BASED ON ACTUAL DAIRY PRO-
2 DUCER MARGIN.—

3 (1) REDUCTION REQUIREMENT 1.—Unless the
4 reduction required by paragraph (2) or (3) applies,
5 when the actual dairy producer margin has been
6 \$6.00 or less per hundredweight of milk for two con-
7 secutive months, the handler shall make payments to
8 a dairy producer for a month based on the greater
9 of the following:

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

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

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

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

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

1 (3) REDUCTION REQUIREMENT 3.—When the
2 actual dairy producer margin has been \$4.00 or less
3 for any one month, the handler shall make payments
4 to a dairy producer for a month based on the great-
5 er of the following:

6 (A) 96 percent of the program base of the
7 dairy producer.

8 (B) 92 percent of the marketings of milk
9 for the month by the producer.

10 (c) CONTINUATION OF REDUCTIONS.—The largest
11 level of payment reduction required under paragraph (1),
12 (2), or (3) of subsection (b) shall be continued for each
13 month until the Secretary suspends the program and ter-
14 minates payment reductions in accordance with section
15 208.

16 (d) PAYMENT REDUCTION EXCEPTION.—Notwith-
17 standing any preceding subsection of this section, a han-
18 dler shall make no payment reductions for a dairy pro-
19 ducer for a month if the producer's milk marketings for
20 the month are equal to or less than the percentage of the
21 program base applicable to the producer under paragraph
22 (1), (2), or (3) of subsection (b).

23 (e) RECONSTITUTION.—The Secretary shall ensure
24 that a dairy producer does not reconstitute a dairy oper-

1 ation for the sole purpose of altering the level of payment
2 reductions required by this section.

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

5 (a) AVAILABILITY FOR PROGRAM BOARD ACTIVI-
6 TIES.—As soon as practicable after the end of month dur-
7 ing which payment reductions are in effect under the pro-
8 gram, the Secretary shall make available to the program
9 board under section 210 50 percent of the monies remitted
10 to the Secretary under section 206 during that month.

11 (b) DEPOSIT OF REMAINING MONIES IN TREAS-
12 URY.—The Secretary shall deposit in the Treasury all
13 monies remitted to the Secretary under section 206 that
14 are not made available to the program board under sub-
15 section (a), and the monies so deposited shall no longer
16 be available for obligation by the Secretary.

17 **SEC. 208. SUSPENSION OF REDUCED PAYMENT REQUIRE-**
18 **MENT.**

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

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

1 (2) the price in the United States for either
2 cheddar cheese or skim milk powder (non-fat dry
3 milk) is more than 20 percent above the world price
4 for that same commodity for two consecutive
5 months.

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

10 (c) EXCEPTION.—Subsection (a)(2) shall not apply if
11 the Secretary determines that the actual dairy producer
12 margin during the same two consecutive months is below
13 \$4.00 per hundredweight of milk.

14 **SEC. 209. AUDIT OF PRODUCER AND HANDLER COMPLI-**
15 **ANCE.**

16 (a) AUDITS AUTHORIZED.—If determined by the Sec-
17 retary to be necessary to ensure dairy producer and han-
18 dler compliance with the program, the Secretary may con-
19 duct periodic audits of participating dairy operations and
20 handlers.

21 (b) SAMPLE OF DAIRY PRODUCERS.—Any audit con-
22 ducted under subsection (a) shall include, at a minimum,
23 investigation of a statistically valid and random sample of
24 dairy producers.

1 **SEC. 210. PROGRAM BOARD.**

2 (a) ESTABLISHMENT; PURPOSE.—The Secretary
3 shall establish a board of directors for the program for
4 the purpose of—

5 (1) administering the monies remitted to the
6 Secretary under section 206 that are made available
7 to the program board under section 207; and

8 (2) determining the most effective use of such
9 monies.

10 (b) APPOINTMENT OF DIRECTORS.—

11 (1) NUMBER AND QUALIFICATIONS.—The Sec-
12 retary shall appoint 24 members to serve on the pro-
13 gram board, who shall be representative of the
14 United States dairy producer community, taking
15 into account geographical diversity, cooperative
16 membership, and volumes of milk produced in var-
17 ious States and regions.

18 (2) REIMBURSEMENT OF EXPENSES.—From
19 the monies made available to the program board
20 under section 207, the Secretary shall reimburse
21 members of the program board for those costs of
22 service on the program board that the Secretary de-
23 termines reasonable and appropriate.

24 (c) DECISIONMAKING.—The program board shall
25 reach decisions by an affirmative vote of $\frac{2}{3}$ of its mem-
26 bers.

1 (d) REMOVAL OF DAIRY PRODUCTS AND EXPANSION
2 OF DEMAND.—

3 (1) SPENDING AUTHORITY.—The program
4 board shall have the authority to use monies made
5 available to the program board under section 207—

6 (A) to purchase dairy products through
7 commercial sources for donation to food banks
8 and other food programs that the Board deter-
9 mines appropriate, within three months of col-
10 lecting the funds; and

11 (B) to expand consumption and build de-
12 mand for dairy products.

13 (2) NO DUPLICATION OF EFFORT.—The pro-
14 gram board shall ensure that projects supported
15 under paragraph (1) are compatible with, and do not
16 duplicate, programs supported by the dairy research
17 and promotion activities conducted under the Dairy
18 Production Stabilization Act of 1983 (7 U.S.C. 4501
19 et seq.).

20 (3) MANAGEMENT CONTRACT.—The program
21 board may enter into a contract with a managing
22 entity to carry out this subsection.

23 (e) PROGRAM EVALUATION.—

24 (1) CONTRACT AUTHORITY.—Using monies
25 made available to the program board under section

1 207, the program board shall enter into a contract
2 for an evaluation of the program after it has been
3 in operation for two years. The evaluation shall in-
4 clude the use of established dairy economic models
5 to ascertain the effectiveness and operation of the
6 program.

7 (2) SUBMISSION OF RESULTS.—The program
8 board shall submit the results of evaluations con-
9 ducted under paragraph (1) to the Secretary, who
10 shall review such evaluations and make such rec-
11 ommendations to Congress as the Secretary con-
12 siders appropriate regarding the program.

13 **SEC. 211. DURATION.**

14 The Secretary shall conduct the program during the
15 period beginning on January 1, 2012, and ending on De-
16 cember 31, 2017.

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

19 **SEC. 301. DEFINITION AND AMENDMENT REFERENCE.**

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

22 (b) AMENDMENTS TO CODE OF FEDERAL REGULA-
23 TIONS.—Whenever in this title the Secretary is directed
24 to amend or repeal a section, the reference shall be consid-

1 ered to be made to a section of title 7 of the Code of Fed-
2 eral Regulations.

3 **Subtitle A—Order Amendments**

4 **SEC. 311. REQUIRED AMENDMENTS OF GENERAL PROVI-** 5 **SIONS OF FEDERAL MILK MARKETING OR-** 6 **DERS.**

7 (a) IN GENERAL.—Using the expedited amendment
8 process provided by section 321, the Secretary of Agri-
9 culture shall execute amendments required by this section
10 to certain provisions that are common to, and apply to,
11 all Federal milk marketing orders issued under section 8c
12 of the Agricultural Adjustment Act (7 U.S.C. 608c), reen-
13 acted with amendments by the Agricultural Marketing
14 Agreement Act of 1937, as contained in part 1000 of
15 chapter X of title 7, Code of Federal Regulations.

16 (b) HANDLER RESPONSIBILITY FOR RECORDS AND
17 FACILITIES.—The Secretary shall amend section
18 1000.27(a)(2) to read as follows:

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

21 “(A) to verify or establish such handler’s obli-
22 gation under the order; or

23 “(B) to provide information necessary to the
24 administration of any Federal milk order.”.

1 (c) PRICE SURVEYS.—The Secretary shall amend
2 sections 1000.33 and 1000.34 to read as follows:

3 **“§ 1000.33 Dairy product price survey.**

4 “Each plant shall report such information as the
5 market administrator determines to be necessary to con-
6 duct and audit the dairy product price survey pursuant
7 to §1170.

8 **“§ 1000.34. Competitive milk price survey.**

9 “Each plant shall report such information as the
10 market administrator determines to be necessary to con-
11 duct and audit the competitive milk price survey required
12 to establish producer price differentials under a Federal
13 milk order.”.

14 (d) CLASSES OF UTILIZATION.—The Secretary shall
15 amend section 1000.40 to read as follows:

16 **“§ 1000.40 Classes of utilization.**

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

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

22 (1) Disposed of in the form of fluid milk
23 products, except as otherwise provided in this
24 section.

1 “(2) In packaged fluid milk products in in-
2 ventory at the end of the month.

3 “(3) In shrinkage assigned pursuant to
4 §1000.43(b).

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

7 “(1) In fluid milk products in containers
8 larger than 1 gallon and fluid cream products
9 disposed of or diverted to a commercial food
10 processing establishment if the market adminis-
11 trator is permitted to audit the records of the
12 commercial food processing establishment for
13 the purpose of verification. Otherwise, such
14 uses shall be Class I.

15 “(2) Used to produce:

16 “(i) Cottage cheese, lowfat cottage
17 cheese, dry curd cottage cheese, ricotta
18 cheese, pot cheese, Creole cheese, and any
19 similar soft, high moisture cheese resem-
20 bling cottage cheese in form or use.

21 “(ii) Milkshake and ice milk mixes (or
22 bases), frozen desserts, and frozen dessert
23 mixes distributed in half-gallon containers
24 or larger and intended to be used in soft
25 or semi-solid form.

1 “(iii) Aerated cream, frozen cream,
2 sour cream, sour half-and-half, sour cream
3 mixtures containing non-milk items; yo-
4 gurt, including yogurt containing beverages
5 with 20 percent or more yogurt by weight
6 and kefir, and any other semi-solid product
7 resembling a product described in this sub-
8 paragraph.

9 “(iv) Custards, puddings, pancake
10 mixes, coatings, batter, and similar prod-
11 ucts.

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

17 “(vi) Products especially prepared for
18 infant feeding or dietary use (meal replace-
19 ments) that are packaged in hermetically
20 sealed containers and products that meet
21 the compositional standards of
22 §1000.15(a) but contain no fluid milk
23 products included in §1000.15(a).

24 “(vii) Candy, soup, bakery products
25 and other prepared foods which are proc-

1 essed for general distribution to the public,
2 and intermediate products, including
3 sweetened condensed milk, to be used in
4 processing such prepared food products.

5 “(viii) A fluid cream product or any
6 product containing artificial fat or fat sub-
7 stitutes that resembles a fluid cream prod-
8 uct, except as otherwise provided in sub-
9 paragraph (3).

10 “(ix) Any product not otherwise speci-
11 fied in this section

12 “(3) Used to produce:

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

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

19 “(4) Used to produce:

20 “(i) Butter.

21 “(ii) Evaporated or sweetened con-
22 densed milk in a consumer type package.

23 “(iii) Any milk product in dried form.

1 “(5) In inventory at the end of the month
2 of fluid milk products and fluid cream products
3 in bulk form.

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

7 “(7) In shrinkage assigned pursuant to
8 §1000.43(b).

9 “(8) Used in any product otherwise de-
10 scribed in paragraph (a) or this paragraph, to
11 the extent that the quantities so used can be
12 verified from records to the satisfaction of the
13 market administrator, but that is—

14 “(i) dumped;

15 “(ii) destroyed;

16 “(iii) used for animal feed; or

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

20 (e) CLASSIFICATION OF TRANSFERS AND DIVER-
21 SIONS.—The Secretary shall amend section 1000.42—

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

24 (2) in paragraph (c)(3), by striking the second
25 sentence and inserting the following: “For this pur-

1 pose, the receiving handler's utilization of skim milk
2 and butterfat in each class shall be assigned, to the
3 extent possible, to its receipts of skim milk and but-
4 terfat, in bulk fluid cream products, and bulk fluid
5 milk products, respectively, pro rata to each source,
6 first to Class II, then to Class I.”.

7 (f) GENERAL CLASSIFICATION RULES.—The Sec-
8 retary shall amend section 1000.43(b)—

9 (1) in subparagraph (1), by striking “the low-
10 est-priced class” and inserting “Class II”;

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

13 (g) CLASSIFICATION OF PRODUCER MILK.—The Sec-
14 retary shall amend section 1000.44(a)—

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

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

21 (3) in subparagraph (4)—

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

1 (B) by striking “other than Class I, but
2 not in excess of the pounds of skim milk re-
3 maining in these other classes combined” and
4 inserting “as Class II”;

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

8 (5) in subparagraph (6)—

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

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

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

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

19 (E) in subparagraph (8), by striking “, III
20 and IV combined, with the quantity prorated to
21 Classes II, III and IV combined being sub-
22 tracted in sequence beginning with Class IV”;
23 and

24 (F) in subparagraph (9), by striking “in
25 Classes II, III and IV combined, with the quan-

1 tity prorated to Classes II, III and IV combined
2 being subtracted in sequence beginning with
3 Class IV” and inserting “Class II”.

4 (h) MILK PRICES, COMPONENT PRICES, AND AD-
5 VANCED PRICING FACTORS.—The Secretary shall amend
6 section 1000.50 to read as follows:

7 **“§ 1000.50 Milk prices, component prices, and ad-**
8 **vanced pricing factors.**

9 “The prices and pricing factors described in para-
10 graphs (a), (b), (c), (d), (e), (f), (n), and (o) of this section
11 shall be based on weighted average dairy product prices
12 of the most recent 2 weekly prices, and competitive milk
13 prices for the previous month, announced by the Depart-
14 ment before the 24th day of the month. These prices shall
15 be announced on or before the 23rd day of the month and
16 shall apply to milk received during the following month.
17 The prices described in paragraphs (g) through (m) of this
18 section shall be based on weighted average dairy product
19 prices for the preceding month of weekly prices, and com-
20 petitive milk prices for the preceding month, announced
21 by the Department on or before the 5th day of the month
22 and shall apply to milk received during the preceding
23 month.

24 “(a) CLASS I PRICE.—The Class I price per
25 hundredweight, rounded to the nearest cent, shall be

1 .965 times the Class I skim milk price plus 3.5
2 times the Class I butterfat price.

3 “(b) CLASS I SKIM MILK PRICE.—The Class I
4 skim milk price per hundredweight shall be the ad-
5 justed Class I differential specified in §1000.52, plus
6 the adjustment to Class I prices specified in
7 §1005.51(b), §1006.51(b), and §1007.51(b), plus
8 the higher of the advanced pricing factors computed
9 in subparagraph (1) or (2) of paragraph (o).

10 “(c) CLASS I BUTTERFAT PRICE.—The Class I
11 butterfat price per pound shall be the adjusted Class
12 I differential specified in §1000.52 divided by 100,
13 plus the adjustments to Class I prices specified in
14 §1005.51(b), §1006.51(b), and §1007.51(b) divided
15 by 100, plus the advanced butterfat price computed
16 in paragraph (o)(3).

17 “(d) MINIMUM SKIM MILK BASE PRICE.—The
18 minimum skim milk base price per hundred weight,
19 rounded to the nearest cent, shall be the lowest re-
20 gional competitive milk price for the second previous
21 month, plus the advanced competitive milk price
22 updater computed in paragraph (n), minus 3.5 times
23 the minimum butterfat base price, all divided by
24 0.965.

1 “(e) MINIMUM BUTTERFAT BASE PRICE.—The
2 minimum butterfat base price per pound, rounded to
3 the hundredth of one cent, shall be the advanced
4 butterfat price computed in paragraph (o)(3).

5 “(f) MINIMUM BASE PRICE.—The minimum
6 base price per hundredweight, rounded to the near-
7 est cent, shall be the lowest regional competitive
8 milk price for the second previous month, plus the
9 advanced competitive milk price updater computed
10 in paragraph (n).

11 “(g) REGIONAL COMPETITIVE MILK PRICE.—
12 The regional competitive milk price per hundred
13 weight shall be the weighted average competitive
14 price paid for milk used to make cheese in the re-
15 gion or regions designated per §____.51(c) of each
16 Federal milk order and adjusted to 3.5 percent but-
17 terfat using the butterfat price computed in para-
18 graph (l).

19 “(h) LOWEST REGIONAL COMPETITIVE MILK
20 PRICE.—The lowest regional competitive milk price
21 per hundredweight shall be the weighted average
22 competitive price paid for milk used to make cheese
23 in the region with the lowest such regional competi-
24 tive milk price, and adjusted to 3.5 percent butterfat
25 using the butterfat price computed in paragraph (l).

1 “(i) NATIONAL AVERAGE COMPETITIVE MILK
2 PRICE.—The national average competitive milk price
3 per hundredweight shall be the national weighted av-
4 erage competitive price paid for milk used to make
5 cheese, adjusted to 3.5 percent butterfat using the
6 butterfat price computed in paragraph (l).

7 “(j) BALANCING MILK PRICE.—The balancing
8 milk price per hundredweight, rounded to the near-
9 est cent, shall be .965 times the balancing skim milk
10 price plus 3.5 times the butterfat price.

11 “(k) BALANCING SKIM MILK PRICE.—The bal-
12 ancing skim milk price per hundredweight, rounded
13 to the nearest cent, shall be the nonfat solids price
14 per pound times 9.

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

21 “(m) NONFAT SOLIDS PRICE.—The nonfat sol-
22 ids price per pound, rounded to the nearest one-hun-
23 dredth cent, shall be calculated as follows:

24 “(1) Subtract 16.78 cents from the United
25 States average nonfat dry milk survey price re-

1 ported by the Department for the month and
2 multiply the result by .99.

3 “(2) Divide the most recently announced
4 monthly Producer Price Index for Industrial
5 Natural Gas (as announced by the Bureau of
6 Labor Statistics) by 239, and subtract 1. Mul-
7 tiply this result by 3.5 cents.

8 “(3) Divide the most recently announced
9 monthly Producer Price Index for Industrial
10 Electricity (as announced by the Bureau of
11 Labor Statistics) by 134, and subtract 1. Mul-
12 tiply this result by 1.3 cents.

13 “(4) Subtract the results of subparagraphs
14 (2) and (3) from the result of subparagraph
15 (1).

16 “(n) **ADVANCED COMPETITIVE MILK PRICE**
17 **UPDATER.**—Using the weighted average of the two
18 most recent Department average weekly dairy prod-
19 uct survey prices announced before the 24th day of
20 the month, the advanced competitive milk price
21 updater will be calculated as follows:

22 “(1) Multiply by 9.64 the United States
23 average cheese price computed as a weighted
24 average of—

1 “(i) the United States average survey
2 price for 40-lb. block cheese reported by
3 the Department for the month; and

4 “(ii) the United States average survey
5 price for 500-pound barrel cheddar cheese
6 (38 percent moisture) reported by the De-
7 partment for the month plus 3 cents.

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

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

12 “(4) Add the results obtained from sub-
13 paragraphs (1), (2), and (3).

14 “(5) From the result calculated in sub-
15 paragraph (4), subtract the result of the same
16 calculation used in announcing advanced prices
17 in the previous month.

18 “(o) **ADVANCED PRICING FACTORS.**—For the
19 purpose of computing the Class I skim milk price
20 and the Class I butterfat price for the following
21 month, the following pricing factors shall be com-
22 puted using the weighted average of the two most
23 recent United States average weekly survey prices
24 issued by the Department, and competitive milk

1 prices for the previous month, announced before the
2 24th day of the month:

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

6 “(i) Add the national average com-
7 petitive milk price for the previous month
8 to the advanced competitive milk price
9 updater.

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

12 “(iii) Subtract the result of clause (ii)
13 from the result of clause (i), and divide by
14 0.965.

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

18 “(i) Following the procedure set forth
19 in paragraph (m), but using the weighted
20 average of the two most recent United
21 States average weekly survey prices an-
22 nounced by the Department before the
23 24th day of the month, compute a nonfat
24 solids price.

1 “(ii) Multiply the nonfat solids price
2 computed in clause (i) by 9.

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

11 (i) ANNOUNCEMENT OF MILK PRICES, COMPONENT
12 PRICES, AND PRICING FACTORS.—The Secretary shall
13 amend section 1000.53 to read as follows:

14 “**§ 1000.53 Announcement of milk prices, component**
15 **prices, and pricing factors.**

16 “(a) On or before the 5th day of the month, the mar-
17 ket administrator for each Federal milk order shall an-
18 nounce the following prices for the preceding month:

19 “(1) The national average competitive milk
20 price.

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

23 “(3) The lowest regional competitive price.

24 “(4) The balancing milk price.

25 “(5) The butterfat price.

1 “(6) The nonfat solids price.

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

6 “(1) The Class I price.

7 “(2) The Class I skim milk price.

8 “(3) The Class I butterfat price.

9 “(4) The minimum skim milk base price.

10 “(5) The minimum base price.

11 “(6) The advanced competitive milk price
12 updater.

13 “(7) The advanced pricing factors described in
14 §1000.50(o).”.

15 (j) PRODUCER PRICE DIFFERENTIAL.—The Sec-
16 retary shall insert after section 1000.54 the following new
17 sections:

18 **“§ 1000.60 Handler’s obligation.**

19 “For the purpose of computing a handler’s obligation
20 to the market, the market administrator for each Federal
21 milk order shall determine for each month the differential
22 value of milk of each handler with respect to each of the
23 handler’s pool plants and of each handler described in
24 §1000.9(c) with respect to milk that was not received at
25 a pool plant by adding the amounts computed in para-

1 graphs (a) through (d) and subtracting from that total
2 amount the value computed in paragraphs (e) through (g).
3 If the total calculated is negative, it is an obligation to
4 the handler from the producer-settlement fund, subject to
5 the limitation described in §1000.72(a). Receipts of
6 nonfluid milk products that are distributed as labeled re-
7 constituted milk for which payments are made to the pro-
8 ducer-settlement fund of another Federal order under
9 paragraphs (a)(4) and (d) of §1000.76 shall be excluded
10 from pricing under this section.

11 “(a) Multiply the pounds of skim milk and but-
12 terfat in Class I, pursuant to §1000.44(c), by the
13 difference between the Class I price applicable at the
14 location of the pool plant and the minimum Class I
15 base price.

16 “(b) Multiply the pounds of skim milk and but-
17 terfat in Class II, pursuant to §1000.44(c), by the
18 share of the handler’s gross utilization described in
19 subparagraphs (1) and (2) of §1000.40(b), and mul-
20 tiply this product again by 30 cents per hundred-
21 weight.

22 “(c) Multiply the difference between the Class
23 I price applicable at the location of the pool plant
24 and the minimum base price by the hundredweight
25 of skim milk and butterfat assigned to Class I pur-

1 suant to § 1000.43(d) and the hundredweight of
2 skim milk and butterfat subtracted from Class I
3 pursuant to clauses (i) through (vi) of
4 §1000.44(a)(3) and the corresponding step of §
5 1000.44(b), excluding receipts of bulk fluid cream
6 products from a plant regulated under other orders
7 and bulk concentrated fluid milk products from pool
8 plants, plants regulated under other orders, and un-
9 regulated supply plants.

10 “(d) Multiply the difference between the Class
11 I price applicable at the location of the nearest un-
12 regulated supply plants from which an equivalent
13 volume was received by the pounds of skim milk and
14 butterfat in receipts of concentrated fluid milk prod-
15 ucts assigned to Class I pursuant to §1000.43(d)
16 and §1000.44(a)(3)(i) and the minimum base price,
17 and the pounds of skim milk and butterfat sub-
18 tracted from Class I pursuant to §1000.44(a)(8)
19 and the corresponding step of §1000.44(b), exclud-
20 ing such skim milk and butterfat in receipts of fluid
21 milk products from an unregulated supply plant to
22 the extent that an equivalent amount of skim milk
23 or butterfat disposed of to such plant by handlers
24 fully regulated under any order is classified and

1 priced as Class I milk and is not used as an offset
2 for any other payment obligation under any order.

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

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

7 “(g) For reconstituted milk made from receipts
8 of nonfluid milk products, multiply \$1.00 by the
9 hundredweight of skim milk and butterfat contained
10 in receipts of nonfluid milk products that are allo-
11 cated to Class I use pursuant to §1000.43(d).

12 **“§ 1000.61 Computation of producer price differen-**
13 **tial.**

14 “For each month, the market administrator for each
15 Federal milk order shall compute a producer price dif-
16 ferential per hundredweight. The report of any handler
17 who has not made payments required pursuant to
18 §1000.71 for the preceding month shall not be included
19 in the computation of the producer price differential, and
20 such handler’s report shall not be included in the computa-
21 tion for succeeding months until the handler has made full
22 payment of outstanding monthly obligations. Subject to
23 the conditions in this section, the market administrator
24 shall compute the producer price differential in the fol-
25 lowing manner:

1 “(a) Combine into one total the values com-
2 puted pursuant to §1000.60 for all handlers re-
3 quired to file reports prescribed in §_____.30 of
4 the order.

5 “(b) Add an amount equal to the minus loca-
6 tion adjustments, and subtract an amount equal to
7 the plus location adjustments computed pursuant to
8 §1000.75 and as applied in §1000.72(b).

9 “(c) Add an amount equal to not less than one-
10 half of the unobligated balance in the producer-set-
11 tlement fund.

12 “(d) Divide the resulting amount by the sum of
13 the following for all handlers included in these com-
14 putations:

15 “(1) The total hundredweight of producer
16 milk.

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

19 “(e) Subtract not less than 4 cents nor more
20 than 5 cents from the amount computed pursuant to
21 paragraph (d). The result rounded to the nearest
22 cent, if positive, shall be known as the producer
23 price differential for the month. If the result is neg-
24 ative, the producer price differential shall be zero.

1 **“§ 1000.62 Announcement of producer price differen-**
2 **tial**

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

6 “(1) The producer price differential.

7 “(2) The average butterfat content of producer
8 milk.

9 “(b) If the final date specified in paragraph (a) falls
10 on a Saturday, Sunday, or national holiday, the market
11 administrator may have up to two additional business days
12 to announce the producer price differential and the statis-
13 tical uniform price.”.

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

16 **“§ 1000.70 Producer-settlement fund.**

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

20 “(1) into which the market administrator shall
21 deposit all payments made by handlers pursuant to
22 §1000.71, §1000.76, and §1000.77; and

23 “(2) out of which the market administrator
24 shall make all payments pursuant to §1000.72 and
25 §1000.77.

1 “(b) Payments due any handler shall be offset by any
2 payments due from that handler.”

3 (l) ADDITIONAL PROVISIONS APPLICABLE TO ALL
4 ORDERS.—The Secretary shall insert after section
5 1000.70 the following new sections:

6 **“§ 1000.71 Payments to the producer-settlement fund.**

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

15 **“§ 1000.72 Payments from the producer-settlement
16 fund.**

17 “No later than one day after the date of payment
18 receipt required under §1000.71, the market adminis-
19 trator shall pay as follows:

20 “(a) To each handler, the amount, if negative,
21 equal to the total obligation of the handler to the
22 market for the month as determined pursuant to
23 §1007.60. If, at such time and after all payments
24 have been received pursuant to §1000.71, the bal-
25 ance in the producer-settlement fund is insufficient

1 to make all payments pursuant to this section, the
2 market administrator shall reduce uniformly such
3 payments.

4 “(b) To each handler described in §1000.9(c),
5 and to each producer for whom such a handler is not
6 authorized to collect payment, for producer milk as
7 defined in §_____.13 of each Federal milk order,
8 the producer price differential, adjusted pursuant to
9 §1000.75 but so that the producer price differential
10 in no location shall be less than zero.

11 **“§ 1000.73 Payments to producers and to cooperative**
12 **associations.**

13 “Each handler shall have the following payment obli-
14 gations with respect to producer milk and with respect to
15 Class I transfers from a cooperative association:

16 “(a) Each handler that is not paying a coopera-
17 tive association for producer milk shall pay each pro-
18 ducer as follows:

19 “(1) PARTIAL PAYMENT.—For each pro-
20 ducer who has not discontinued shipments as of
21 the 23rd day of the month, payment shall be
22 made so that the payment is received by the
23 producer on or before the 26th day of the
24 month (except as provided in §1000.90) for
25 milk received during the first 15 days of the

1 month, at not less than the minimum base price
2 for estimated Class I producer milk, and at an
3 estimated market price for other producer milk,
4 both adjusted for proper deductions authorized
5 in writing by the producer.

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

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

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

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

23 “(A) Subtract the partial pay-
24 ments made for Class I producer milk,

1 including those pursuant to subpara-
2 graph (1).

3 “(B) Subtract the deduction for
4 marketing services pursuant to
5 §1000.86.

6 “(C) Add or subtract for errors
7 made in previous payments to the pro-
8 ducer.

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

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

15 “(1) Partial payment to a cooperative asso-
16 ciation for bulk milk received directly from pro-
17 ducers’ farms. For bulk milk (including the
18 milk of producers who are not members of such
19 association and who the market administrator
20 determines have authorized the cooperative as-
21 sociation to collect payment for their milk) re-
22 ceived during the first 15 days of the month
23 from a cooperative association in any capacity,
24 except as the operator of a pool plant, the pay-
25 ment shall be equal to no less than the min-

1 imum base price for estimated Class I producer
2 milk, and an estimated market price for all
3 other producer milk.

4 “(2) Partial payment to a cooperative asso-
5 ciation for milk transferred from its pool plant.
6 For bulk fluid milk products and bulk fluid
7 cream products received during the first 15
8 days of the month from a cooperative associa-
9 tion in its capacity as the operator of a pool
10 plant, the partial payment shall be at the pool
11 plant operator’s estimated use value of the skim
12 milk and butterfat at the receiving plant’s loca-
13 tion.

14 “(3) Final payment to a cooperative asso-
15 ciation for milk transferred from its pool plant.
16 For bulk Class I transfers of fluid milk prod-
17 ucts and bulk fluid cream products received
18 during the month from a cooperative associa-
19 tion in its capacity as the operator of a pool
20 plant, the final payment shall be the classified
21 value of such milk as determined by multiplying
22 the pounds of skim milk and butterfat assigned
23 to Class I pursuant to §1000.44 by the min-
24 imum skim base price and the advanced but-
25 terfat price, respectively, for the month, and

1 subtracting from this sum the partial payment
2 made pursuant to subparagraph (2).

3 “(4) Final payment to a cooperative asso-
4 ciation for bulk milk received directly from pro-
5 ducers’ farms. For bulk milk received from a
6 cooperative association during the month, in-
7 cluding the milk of producers who are not mem-
8 bers of such association and who the market
9 administrator determines have authorized the
10 cooperative association to collect payment for
11 their milk, the final payment for such milk shall
12 be an amount equal to the sum of the individual
13 payments otherwise payable for such milk pur-
14 suant to subparagraph (2).

15 “(c) If a handler claims that a required pay-
16 ment to a producer cannot be made because the pro-
17 ducer is deceased or cannot be located, or because
18 the cooperative association or its lawful successor or
19 assignee is no longer in existence, the payment shall
20 be made to the producer-settlement fund, and in the
21 event that the handler subsequently locates and pays
22 the producer or a lawful claimant, or in the event
23 that the handler no longer exists and a lawful claim
24 is later established, the market administrator shall
25 make the required payment from the producer settle-

1 ment fund to the handler or to the lawful claimant
2 as the case may be.

3 “(d) In making payments to producers pursu-
4 ant to this section, each pool plant operator shall
5 furnish each producer, except a producer whose milk
6 was received from a cooperative association de-
7 scribed in paragraphs (a) or (c) of §1000.9, a sup-
8 porting statement in such form that it may be re-
9 tained by the recipient which shall show:

10 “(1) The name, address, Grade A identi-
11 fier assigned by a duly constituted regulatory
12 agency, and the payroll number of the producer.

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

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

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

21 “(5) The rate used in making payment if
22 the rate is other than the applicable minimum
23 rate.

1 “(6) The amount, or rate per hundred-
2 weight, and nature of each deduction claimed
3 by the handler.

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

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

10 “(f) Satisfaction of the minimum payment re-
11 quirements under this section shall be determined by
12 the market administrator and, for pool distributing
13 plants, must be in addition to the payment of mar-
14 ket value for all other receipts, as determined by the
15 market administrator, but not less than the lowest
16 regional competitive pay price, and made by the
17 same date on which other minimum payments are
18 due.

19 **“§ 1000.74 Skim milk balancing credit.**

20 “Subject to the limitation specified in §1000.72(a),
21 each pool handler of Class II producer milk defined in
22 §1000.40(b)(4) shall receive from the producer- settle-
23 ment fund a credit equal to the amount calculated in para-
24 graph (c), if positive, or contribute to the pool, if negative.

1 “(a) Multiply the pounds of skim milk in Class
2 II, pursuant to §1000.44(a), by the share of the
3 handler’s gross utilization of skim milk described in
4 §1000.40(b)(4).

5 “(b) Subtract the balancing milk price from the
6 regional competitive milk price. This is the skim bal-
7 ancing credit.

8 “(c) Multiply the volume calculated in para-
9 graph (a) by the credit calculated in paragraph (b).

10 **“§ 1000.75 Plant location adjustments for producer**
11 **milk and nonpool milk.**

12 “For purposes of making payments for producer milk
13 and nonpool milk, a plant location adjustment shall be de-
14 termined by subtracting the Class I price specified in
15 §1000.51 from the Class I price at the plant’s location.
16 The difference, plus or minus as the case may be, shall
17 be used to adjust the payments required pursuant to
18 §1000.72 and §1000.76.

19 **“§ 1000.76 Payments by a handler operating a par-**
20 **tially regulated distributing plant.**

21 “On or before the 25th day after the end of the
22 month (except as provided in §1000.90), the operator of
23 a partially regulated distributing plant, other than a plant
24 that is subject to market-wide pooling of producer returns
25 under the milk classification and pricing program of a

1 State government, shall pay to the market administrator
2 for the producer-settlement fund the amount computed
3 pursuant to paragraph (a) or, if the handler submits the
4 information specified in §_____.30(b) and
5 §_____.31(b) of the order, the handler may elect to
6 pay the amount computed pursuant to paragraph (b). A
7 partially regulated distributing plant that is subject to
8 market-wide pooling of producer returns under the milk
9 classification and pricing program of a State government
10 shall pay the amount computed pursuant to paragraph (c).

11 “(a) The payment under this paragraph shall
12 be an amount resulting from the following computa-
13 tions:

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

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

23 “(ii) Subtract receipts of fluid milk
24 products from another nonpool plant that
25 is not a plant fully regulated under an-

1 other Federal order to the extent that an
2 equivalent amount of fluid milk products
3 disposed of to the nonpool plant by han-
4 dlers fully regulated under any Federal
5 order is classified and priced as Class I
6 milk and is not used as an offset for any
7 payment obligation under any order.

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

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

18 “(3) Unless the payment option described
19 in paragraph (d) is selected, add the amount
20 obtained from multiplying the pounds of labeled
21 reconstituted milk included in paragraph
22 (a)(1)(iii) by any positive difference between the
23 Class I price applicable at the location of the
24 partially regulated distributing plant (less \$1.00

1 if the reconstituted milk is labeled as such) and
2 the minimum base price.

3 “(b) The payment under this paragraph shall
4 be the amount resulting from the following computa-
5 tions:

6 “(1) Determine the value that would have
7 been computed pursuant to §1000.60 for the
8 partially regulated distributing plant if the
9 plant had been a pool plant, subject to the fol-
10 lowing modifications:

11 “(i) Fluid milk products and bulk
12 fluid cream products received at the plant
13 from a pool plant, a plant fully regulated
14 under another Federal milk order, and
15 handlers described in §1000.9(c) and
16 §1135.11 shall be allocated at the partially
17 regulated distributing plant to the same
18 class in which such products were classi-
19 fied at the fully regulated plant.

20 “(ii) Fluid milk products and bulk
21 fluid cream products transferred from the
22 partially regulated distributing plant to a
23 pool plant or a plant fully regulated under
24 another Federal order shall be classified at
25 the partially regulated distributing plant in

1 the class to which allocated at the fully
2 regulated plant. Such transfers shall be al-
3 located to the extent possible to those re-
4 ceipts at the partially regulated distrib-
5 uting plant from the pool plant and plants
6 fully regulated under other Federal orders
7 that are classified in the corresponding
8 class pursuant to clause (i). Any such
9 transfers remaining after the above alloca-
10 tion which are in Class I and for which an
11 obligation is computed pursuant to
12 §1000.60 for the partially regulated dis-
13 tributing plant shall be obliged at the pro-
14 ducer price differential of the respective
15 order regulating the handling of milk at
16 the receiving plant, with such producer
17 price differential adjusted to the location of
18 the nonpool plant (but not to be less than
19 zero).

20 “(iii) If the operator of the partially
21 regulated distributing plant so requests,
22 the handler’s obligation to the market de-
23 termined pursuant to § 1000.60 shall in-
24 clude a value determined for each nonpool
25 plant that is not a plant fully regulated

1 under another Federal order which serves
2 as a supply plant for the partially regu-
3 lated distributing plant by making ship-
4 ments to the partially regulated distrib-
5 uting plant during the month equivalent to
6 the requirements of section §_____.7(c)
7 of the order subject to the following condi-
8 tions:

9 “(A) The operator of the par-
10 tially regulated distributing plant sub-
11 mits with its reports filed pursuant to
12 §_____.30(b) and
13 §_____.31(b) of the order similar
14 reports for each such nonpool supply
15 plant.

16 “(B) The operator of the nonpool
17 plant maintains books and records
18 showing the utilization of all skim
19 milk and butterfat received at the
20 plant which are made available if re-
21 quested by the market administrator
22 for verification purposes.

23 “(C) The handler’s obligation to
24 the market determined pursuant to
25 §1000.60 for the unregulated supply

1 plant shall be determined in the same
2 manner prescribed for computing the
3 obligation of the partially regulated
4 distributing plant.

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

16 “(c) The operator of a partially regulated dis-
17 tributing plant that is subject to market-wide pool-
18 ing of returns under a milk classification and pricing
19 program that is imposed under the authority of a
20 State government shall pay on or before the 25th
21 day after the end of the month (except as provided
22 in §1000.90) to the market administrator for the
23 producer-settlement fund an amount computed as
24 follows:

1 “(1) After completing the computations de-
2 scribed in clauses (i) and (ii) of paragraph
3 (a)(1), determine the value of the remaining
4 pounds of fluid milk products disposed of as
5 route disposition in the marketing area by mul-
6 tiplying the hundredweight of such pounds by
7 the amount, if greater than zero, calculated
8 under subparagraph (2).

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

13 “(d) Any handler may elect partially regulated
14 distributing plant status for any plant with respect
15 to receipts of nonfluid milk ingredients that are re-
16 constituted for fluid use. Payments may be made to
17 the producer-settlement fund of the order regulating
18 the producer milk used to produce the nonfluid milk
19 ingredients at the positive difference between the
20 Class I price applicable under the other order at the
21 location of the plant where the nonfluid milk ingredi-
22 ents were processed and the minimum base price.
23 This payment option shall apply only if a majority
24 of the total milk received at the plant that processed
25 the nonfluid milk ingredients is regulated under one

1 or more Federal orders and payment may only be
2 made to the producer-settlement fund of the order
3 pricing a plurality of the milk used to produce the
4 nonfluid milk ingredients. This payment option shall
5 not apply if the source of the nonfluid ingredients
6 used in reconstituted fluid milk products cannot be
7 determined by the market administrator.”.

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

10 (a) **CROSS REFERENCES** .—For each section of title
11 7, Code of Federal Regulations, listed in the first column
12 of the table in subsection (b), the Secretary of Agriculture
13 shall use the expedited amendment process provided by
14 section 321 to amend the section—

15 (1) by striking the text of the section and in-
16 serting “See §_____”, with the blank filled in
17 with the number of the section listed on the same
18 line in the second column of the table; and

19 (2) in the case of each section in the first col-
20 umn ending with “.74”, which as of the date of the
21 enactment of this Act is reserved, by inserting
22 “**Skim milk balancing credit.**” as the section
23 heading.

24 (b) **TABLE**.—The table referred to in subsection (a)
25 is as follows:

Title 7, Code of Federal Regulations, Amendments

Amended Section	New Cross Reference
1001.60	1000.60
1001.61	1000.61
1001.62	1000.62
1001.71	1000.71
1001.72	1000.72
1001.73	1000.73
1001.74	1000.74
1001.75	1000.75
1005.60	1000.60
1005.61	1000.61
1005.62	1000.62
1005.71	1000.71
1005.72	1000.72
1005.74	1000.74
1005.75	1000.75
1006.60	1000.60
1006.61	1000.61
1006.62	1000.62
1006.71	1000.71
1006.72	1000.72
1006.74	1000.74
1006.75	1000.75
1007.60	1000.60
1007.61	1000.61
1007.62	1000.62
1007.71	1000.71
1007.72	1000.72
1007.74	1000.74
1007.75	1000.75
1030.60	1000.60
1030.61	1000.61
1030.62	1000.62
1030.71	1000.71
1030.72	1000.72
1030.73	1000.73
1030.74	1000.74
1030.75	1000.75
1032.60	1000.60
1032.61	1000.61
1032.62	1000.62
1032.71	1000.71
1032.72	1000.72
1032.73	1000.73
1032.74	1000.74
1032.75	1000.75
1033.60	1000.60
1033.61	1000.61
1033.62	1000.62
1033.71	1000.71
1033.72	1000.72
1033.73	1000.73
1033.74	1000.74

Title 7, Code of Federal Regulations, Amendments—Continued

Amended Section	New Cross Reference
1033.75	1000.75
1124.60	1000.60
1124.61	1000.61
1124.62	1000.62
1124.71	1000.71
1124.72	1000.72
1124.73	1000.73
1124.74	1000.74
1124.75	1000.75
1126.60	1000.60
1126.61	1000.61
1126.62	1000.62
1126.71	1000.71
1126.72	1000.72
1126.73	1000.73
1126.74	1000.74
1126.75	1000.75
1131.60	1000.60
1131.61	1000.61
1131.62	1000.62
1131.71	1000.71
1131.72	1000.72
1131.73	1000.73
1131.74	1000.74
1131.75	1000.75

1 **SEC. 313. CONFORMING AMENDMENTS TO REGIONAL FED-**
2 **ERAL MILK MARKETING ORDERS.**

3 (a) IN GENERAL.—Using the expedited amendment
4 process provided by section 321, the Secretary of Agri-
5 culture shall execute amendments required by this section
6 to certain provisions that apply to specific Federal milk
7 marketing orders issued under section 8c of the Agricul-
8 tural Adjustment Act (7 U.S.C. 608c), reenacted with
9 amendments by the Agricultural Marketing Agreement
10 Act of 1937, as contained in chapter X of title 7, Code
11 of Federal Regulations.

1 (b) NORTHEAST MARKETING AREA.—

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

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

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

11 (B) by adding at the end the following new
12 sentence: “The regional competitive milk price
13 applicable to this order shall be the regional
14 competitive milk price for Region 1, as defined
15 in section 274(e)(1) of the Agricultural Mar-
16 keting Act of 1946 (7 U.S.C. 1637c(e)(1)), ad-
17 justed to 3.5 percent butterfat.”.

18 (c) APPALACHIAN MARKETING AREA.—

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

23 (2) CLASS I DIFFERENTIAL, ADJUSTMENTS TO
24 CLASS I PRICES, AND CLASS I PRICE.—The Secretary
25 shall amend section 1005.51—

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

5 (B) by adding at the end the following:
6 “(c) The regional competitive milk price applicable to
7 this Federal order shall be the weighted average of the
8 regional competitive milk prices collected for Regions 1,
9 4, and 5, as defined in section 274(e) of the Agricultural
10 Marketing Act of 1946 (7 U.S.C. 1637c(e)), adjusted to
11 3.5 percent butterfat.”.

12 (3) PAYMENTS TO PRODUCERS AND COOPERA-
13 TIVE ASSOCIATIONS.—The Secretary shall amend
14 section 1005.73 to read as follows:

15 **“§ 1005.73 Payments to producers and cooperative as-**
16 **sociations.**

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

22 (d) FLORIDA MARKETING AREA.—

23 (1) POOL PLANT.—The Secretary shall amend
24 section 1006.7(e)(2) by striking “or Class II prod-

1 ucts” and inserting “products or products identified
2 in subparagraphs (1) and (2) of §1000.40(b)”.

3 (2) CLASS I DIFFERENTIAL, ADJUSTMENTS TO
4 CLASS I PRICES, AND CLASS I PRICE.—The Secretary
5 shall amend section 1006.51—

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

10 (B) by adding at the end the following:

11 “(c) The regional competitive milk price applicable to
12 this Federal order shall be the weighted average of the
13 regional competitive milk prices collected for Regions 1,
14 4, and 5, as defined in section 274(e) of the Agricultural
15 Marketing Act of 1946 (7 U.S.C. 1637c(e)), adjusted to
16 3.5 percent butterfat.”.

17 (3) PAYMENTS TO PRODUCERS AND COOPERA-
18 TIVE ASSOCIATIONS.—The Secretary shall amend
19 section 1006.73 to read as follows:

20 “**§ 1006.73 Payments to producers and cooperative as-**
21 **sociations.**

22 “(a) For the purposes of §1000.73(f), with respect
23 to final payment to producers and cooperative associa-
24 tions, market value for other-than-Class I receipts shall

1 mean the lowest regional competitive pay price for the
2 month, as defined in §1000.50(g).

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

7 “(1) Each handler that is not paying a coopera-
8 tive association for producer milk shall pay each pro-
9 ducer who has not discontinued shipments as of the
10 last day of the month, payment shall be made so
11 that it is received by the producer on or before the
12 5th day of the following month (except as provided
13 in §1000.90) for milk received from the 16th day of
14 the month to the last day of the month, at not less
15 than the minimum base price for estimated Class I
16 producer milk, and at an estimated market price for
17 other producer milk, both adjusted for proper deduc-
18 tions authorized in writing by the producer.

19 “(2) One day before partial payment is due
20 pursuant to paragraph (a), each handler shall pay a
21 cooperative association for milk received directly
22 from producers’ farms (including the milk of pro-
23 ducers who are not members of such association and
24 who the market administrator determines have au-
25 thorized the cooperative association to collect pay-

1 ment for their milk), received from the 16th day of
2 the month to the last day of the month, at not less
3 than the minimum base price for estimated Class I
4 producer milk, and at an estimated market price for
5 all other producer milk.”.

6 (e) SOUTHEAST MARKETING AREA.—

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

11 (2) CLASS I DIFFERENTIAL, ADJUSTMENTS TO
12 CLASS I PRICES, AND CLASS I PRICE.—The Secretary
13 shall amend section 1007.51—

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

18 (B) by adding at the end the following:
19 “(c) The regional competitive milk price applicable to
20 this Federal order shall be the weighted average of the
21 regional competitive milk prices collected for Regions 1,
22 4, and 5, as defined in section 274(e) of the Agricultural
23 Marketing Act of 1946 (7 U.S.C. 1637c(e)), adjusted to
24 3.5 percent butterfat.”.

1 (3) PAYMENTS TO PRODUCERS AND COOPERA-
2 TIVE ASSOCIATIONS.—The Secretary shall amend
3 section 1007.73 to read as follows:

4 **“§ 1007.73 Payments to producers and cooperative as-**
5 **sociations.**

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

11 (f) UPPER MIDWEST MARKETING AREA.—

12 (1) POOL PLANTS.—The Secretary shall amend
13 section 1030.7(e)(2)—

14 (A) by striking “process Class I or Class
15 II products” and inserting “process Class I
16 products or products identified in subpara-
17 graphs (1) and (2) of §1000.40(b)”; and

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

22 (2) CLASS I DIFFERENTIAL AND PRICE.—The
23 Secretary shall amend section 1030.51—

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

4 (B) by adding at the end the following new
5 sentence: “The regional competitive milk price
6 applicable to this order shall be the regional
7 competitive milk price for Region 3, as defined
8 in section 274(e)(3) of the Agricultural Mar-
9 keting Act of 1946 (7 U.S.C. 1637c(e)(3)), ad-
10 justed to 3.5 percent butterfat.”.

11 (g) CENTRAL MARKETING AREA.—

12 (1) POOL PLANTS.—The Secretary shall amend
13 section 1032.7(e)(2)—

14 (A) by striking “process Class I or Class
15 II products” and inserting “process Class I
16 products or products identified in subpara-
17 graphs (1) and (2) of §1000.40(b)”; and

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

22 (2) CLASS I DIFFERENTIAL AND PRICE.—The
23 Secretary shall amend section 1032.51—

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

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

11 (h) MIDEAST MARKETING AREA.—The Secretary
12 shall amend section 1033.51—

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

16 (2) by adding at the end the following new sen-
17 tence: “The regional competitive milk price applica-
18 ble to this order shall be the regional competitive
19 milk price for Region 1, as defined in section
20 274(e)(1) of the Agricultural Marketing Act of 1946
21 (7 U.S.C. 1637c(e)(1)), adjusted to 3.5 percent but-
22 terfat.”.

23 (i) PACIFIC NORTHWEST MARKETING AREA.—The
24 Secretary shall amend section 1124.51—

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

4 (2) by adding at the end the following new sen-
5 tence: “The regional competitive milk price applica-
6 ble to this order shall be the regional competitive
7 milk price for Region 5, as defined in section
8 274(e)(5) of the Agricultural Marketing Act of 1946
9 (7 U.S.C. 1637c(e)(5)), adjusted to 3.5 percent but-
10 terfat.”.

11 (j) SOUTHWEST MARKETING AREA.—

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

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

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

21 (B) by adding at the end the following new
22 sentence: “The regional competitive milk price
23 applicable to this order shall be the regional
24 competitive milk price for Region 5, as defined
25 in section 274(e)(5) of the Agricultural Mar-

1 keting Act of 1946 (7 U.S.C. 1637c(e)(5)), ad-
2 justed to 3.5 percent butterfat.”.

3 (k) ARIZONA MARKETING AREA.—

4 (1) POOL PLANTS.—The Secretary shall amend
5 section 1131.7(e)(2)—

6 (A) by striking “process Class I or Class
7 II products” and inserting “process Class I
8 products or products identified in subpara-
9 graphs (1) and (2) of §1000.40(b)”; and

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

14 (2) CLASS I DIFFERENTIAL AND PRICE.—The
15 Secretary shall amend section 1131.51—

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

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

1 **Subtitle B—Expedited Amendment**
2 **Process**

3 **SEC. 321. EXPEDITED AMENDMENT PROCESS.**

4 (a) EXECUTION OF AMENDMENTS.—Not later than
5 210 days after the date of the enactment of this Act, the
6 Secretary of Agriculture shall execute the amendments re-
7 quired to be made by subtitle A. Execution of the amend-
8 ments shall be made without regard to—

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

11 (2) the Statement of Policy of the Secretary of
12 Agriculture effective July 24, 1971 (36 Fed. Reg.
13 13804), relating to notices of proposed rulemaking
14 and public participation in rulemaking;

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

18 (4) section 8c(17) of the Agricultural Adjust-
19 ment Act (7 U.S.C. 608c(17)), reenacted with
20 amendments by the Agricultural Marketing Agree-
21 ment Act of 1937, relating to amendments to Fed-
22 eral milk marketing orders; and

23 (5) section 8c(19) of such Act (7 U.S.C.
24 608c(19)), relating to a referendum under such Act.

1 (b) CONGRESSIONAL REVIEW OF AGENCY RULE-
2 MAKING.—In executing the amendments, the Secretary
3 shall use the authority provided under section 808 of title
4 5, United States Code.

5 **SEC. 322. ADDITIONAL REGULATIONS.**

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

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

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

21 **SEC. 323. EFFECTIVE DATE.**

22 (a) IMPLEMENTATION.—The amendments to Federal
23 milk marketing orders required by subtitle A and pre-
24 scribed under section 322(a) shall become effective on the

1 first day of the month following the one-year anniversary
2 date of the enactment of this Act.

3 (b) EFFECT OF FAILURE TO EXECUTE AMEND-
4 MENTS.—If the Secretary fails to execute the amendments
5 required by subtitle A or otherwise fails to meet the dead-
6 lines imposed by subsection (a) and section 321(a), the
7 amendments to the Federal milk marketing orders re-
8 quired by subtitle A shall nonetheless become effective and
9 have the force of law as of the effective date provided
10 under subsection (a).

11 **SEC. 324. SUBSEQUENT AMENDMENT OF FEDERAL MILK**
12 **MARKETING ORDERS.**

13 After the effective date specified in section 323(a),
14 nothing in this title affects the authority of the Secretary
15 to amend Federal milk marketing orders or the ability of
16 producers to seek such amendments, in accordance with
17 the formal rulemaking process provided by section 8c(17)
18 of the Agricultural Adjustment Act (7 U.S.C. 608c(17)),
19 reenacted with amendments by the Agricultural Marketing
20 Agreement Act of 1937.

1 **Subtitle C—Dairy Market Price**
2 **Surveys and Other Matters**

3 **SEC. 331. DEFINITION OF DAIRY PRODUCTS FOR DAIRY**
4 **PRODUCT MANDATORY REPORTING.**

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

9 **SEC. 332. SURVEYS OF MARKET MILK PRICES.**

10 Subtitle C of the Agricultural Marketing Act of 1946
11 (7 U.S.C. 1637 et seq.) is amended by adding at the end
12 the following new section:

13 **“SEC. 274. SURVEYS OF MARKET MILK PRICES.**

14 “(a) MONTHLY SURVEYS OF CHEESE PLANTS.—

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

18 “(A) is primarily engaged in cheese manu-
19 facturing and pays competitive milk prices;

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

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

24 “(D) is not operated by a dairy farmer co-
25 operative; and

1 “(E) is not subject to minimum payment
2 requirements for manufacturing milk under
3 Federal or State law.

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

10 “(A) Deductions for producer marketing
11 costs, including hauling, mandatory promotion
12 assessments, and mandatory service assess-
13 ments of the market administrators of Federal
14 milk marketing orders.

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

17 “(b) CONTENTS OF SURVEYS.—Cheese plants de-
18 scribed in subsection (a)(1) shall provide information re-
19 garding the prices that it paid for milk during a month.
20 The monthly information shall include the following:

21 “(1) The total pounds of milk received directly
22 from each farm, or from another milk handler in a
23 form unmodified since received from the farm, pur-
24 chased during the month.

1 “(2) The total pounds of butterfat in such milk
2 purchased during the month.

3 “(3) The price paid, in dollars, for such pur-
4 chases, net of the deductions identified in subsection
5 (a)(2).

6 “(c) PUBLICATION OF RESULTS.—

7 “(1) IN GENERAL.—On or before the 5th day
8 of each month, the Secretary shall publish average
9 competitive milk prices by region, as established by
10 subsection (e).

11 “(2) INCLUSION OF SPECIFIC INFORMATION.—
12 The information published under paragraph (1) shall
13 include—

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

17 “(B) a regional competitive milk price for
18 each region for which there are at least four
19 cheese plants described in subsection (a)(1) re-
20 porting; and

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

23 “(d) ADMINISTRATION, CONFIDENTIALITY, AND EN-
24 FORCEMENT.—Section 273(c) shall apply as necessary to

1 ensure compliance with, and otherwise carry out, this sec-
2 tion.

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

6 “(1) REGION 1.—Region 1 shall consist of the
7 Northeast milk marketing order area, the Mideast
8 milk marketing area (as defined in section 1001.2 of
9 title 7, Code of Federal Regulations, as of January
10 1, 2011), all other counties of the State of New
11 York, all counties of the State of Maine, and all un-
12 regulated counties of the States of Pennsylvania,
13 Maryland, Ohio, West Virginia, Indiana, Kentucky,
14 and Virginia as of January 1, 2011.

15 “(2) REGION 2.—Region 2 shall consist of all of
16 the Appalachian milk marketing area, except for
17 counties in the States of Kentucky, Indiana, and
18 West Virginia, all of the Florida milk marketing
19 area (as defined in section 1006.2 of title 7, Code
20 of Federal Regulations, as of January 1, 2011), and
21 all of the Southeast milk marketing area (as defined
22 in section 1007.2 of title 7, Code of Federal Regula-
23 tions, as of January 1, 2011), except for counties in
24 the States of Missouri and Arkansas.

1 “(3) REGION 3.—Region 3 shall consist of all of
2 the Upper Midwest milk marketing area (as defined
3 in section 1030.2 of title 7, Code of Federal Regula-
4 tions, as of January 1, 2011) and all unregulated
5 counties in the State of North Dakota as of January
6 1, 2011.

7 “(4) REGION 4.—Region 4 shall consist of all of
8 the Central milk marketing area (as defined in sec-
9 tion 1032.2 of title 7, Code of Federal Regulations,
10 as of January 1, 2011), all counties in the States of
11 Missouri and Arkansas, and all unregulated counties
12 in the States of South Dakota and Nebraska as of
13 January 1, 2011.

14 “(5) REGION 5.—Region 5 shall consist of all of
15 the Southwest milk marketing area (as defined in
16 section 1126.2 of title 7, Code of Federal Regula-
17 tions, as of January 1, 2011), all of the Arizona
18 milk marketing area (as defined in section 1131.2 of
19 title 7, Code of Federal Regulations, as of January
20 1, 2011), all of the Pacific Northwest milk mar-
21 keting area (as defined in section 1124.2 of title 7,
22 Code of Federal Regulations, as of January 1,
23 2011), the unregulated counties in the State of Colo-
24 rado as of January 1, 2011, and all other counties

1 in the States of California, Oregon, Idaho, Montana,
2 Wyoming, Nevada, and Utah.

3 “(f) FUNDING.—The Secretary may use funds col-
4 lected from assessments of processors under Federal milk
5 marketing orders to conduct the weekly dairy product
6 price surveys and monthly competitive milk price surveys,
7 including that portion of the salaries the staff of milk mar-
8 keting order administrators incurred in conducting and
9 auditing such surveys, and any attendant costs of con-
10 ducting and auditing such surveys.”.

11 **SEC. 333. DEVELOPMENT OF EFFECTIVE BALANCING PRO-**
12 **GRAMS FOR MILK MARKETS.**

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

- 23 (1) address the market’s balancing needs;
24 (2) target support to those producers and han-
25 dlers who provide balancing services; and

1 (3) formulate compensation that is in line with
2 the costs of providing the services and the benefits
3 to the market of the services.

4 (b) INFORMAL RULEMAKING.—Not later than one
5 year after the date of the enactment of this Act, the Sec-
6 retary shall—

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

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

13 **TITLE IV—REPEAL OF** 14 **SUPERSEDED PROVISIONS**

15 **SEC. 401. REPEAL OF DAIRY PRODUCT PRICE SUPPORT** 16 **AND MILK INCOME LOSS CONTRACT PRO-** 17 **GRAMS.**

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

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

1 **SEC. 402. REPEAL OF PERMANENT PRICE SUPPORT AU-**
2 **THORITY FOR MILK.**

3 (a) **REPEAL.**—Section 201 of the Agricultural Act of
4 1949 (7 U.S.C. 1446) is amended—

5 (1) in subsection (a), by striking “milk,”; and
6 (2) by striking subsections (c) and (d).

7 (b) **EXCLUSION FROM PRICE SUPPORT FOR OTHER**
8 **NONBASIC AGRICULTURAL COMMODITIES.**—Section 301
9 of the Agricultural Act of 1949 (7 U.S.C. 1447) is amend-
10 ed by inserting “(other than milk)” after “agricultural
11 commodity”.

12 **SEC. 403. EFFECTIVE DATE.**

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