

## **Subtitle E—Dairy**

### **SEC. 1501. MILK PRICE SUPPORT PROGRAM.**

(a) *SUPPORT ACTIVITIES.*—During the period beginning on June 1, 2002, and ending on December 31, 2007, the Secretary of Agriculture shall support the price of milk produced in the 48 contiguous States through the purchase of cheese, butter, and nonfat dry milk produced from the milk.

(b) *RATE.*—During the period specified in subsection (a), the price of milk shall be supported at a rate equal to \$9.90 per hundredweight for milk containing 3.67 percent butterfat.

(c) *PURCHASE PRICES.*—

(1) *UNIFORM PRICES.*—The support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Secretary shall be the same for all of that product sold by persons offering to sell the product to the Secretary.

(2) *SUFFICIENT PRICES.*—The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price that is not less than the rate of price support for milk in effect under subsection (b).

(d) *SPECIAL RULE FOR BUTTER AND NONFAT DRY MILK PURCHASE PRICES.*—

(1) *ALLOCATION OF PURCHASE PRICES.*—The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. Not later than 10 days after making or changing an allocation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this section.

(2) *TIMING OF PURCHASE PRICE ADJUSTMENTS.*—The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(e) *COMMODITY CREDIT CORPORATION.*—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

### **SEC. 1502. NATIONAL DAIRY MARKET LOSS PAYMENTS.**

(a) *DEFINITIONS.*—In this section:

(1) *CLASS I MILK.*—The term ‘Class I milk’ means milk (including milk components) classified as Class I milk under a Federal milk marketing order.

(2) *ELIGIBLE PRODUCTION.*—The term ‘eligible production’ means milk produced by a producer in a participating State.

(3) *FEDERAL MILK MARKETING ORDER.*—The term ‘Federal milk marketing order’ means an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(4) *PARTICIPATING STATE.*—The term ‘participating State’ means each State.

(5) *PRODUCER.*—The term ‘producer’ means an individual or entity that directly or indirectly (as determined by the Secretary)—

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

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

(b) *PAYMENTS.*—The Secretary shall offer to enter into contracts with producers on a dairy farm located in a participating State under which the producers receive payments on eligible production.

(c) *AMOUNT.*—Payments to a producer under this section shall be calculated by multiplying (as determined by the Secretary)—

(1) the payment quantity for the producer during the applicable month established under subsection (d);

(2) the amount equal to—

(A) \$16.94 per hundredweight; less

(B) the Class I milk price per hundredweight in Boston under the applicable Federal milk marketing order; by

(3) 45 percent.

(d) *PAYMENT QUANTITY.*—

(1) *IN GENERAL.*—Subject to paragraph (2), the payment quantity for a producer during the applicable month under this section shall be equal to the quantity of eligible production marketed by the producer during the month.

(2) *LIMITATION.*—The payment quantity for all producers on a single dairy operation during the months of the applicable fiscal year for which the producers receive payments under subsection (b) shall not exceed 2,400,000 pounds. For purposes of determining whether producers are producers on separate dairy operations or a single dairy operation, the Secretary shall apply the same standards as were applied in implementing the dairy program under section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-387; 114 Stat. 1549A-50).

(3) *RECONSTITUTION.*—The Secretary shall promulgate regulations to ensure that a producer does not reconstitute a dairy operation for the sole purpose of receiving additional payments under this section.

(e) *PAYMENTS.*—A payment under a contract under this section shall be made on a monthly basis not later than 60 days after the last day of the month for which the payment is made.

(f) *SIGNUP.*—The Secretary shall offer to enter into contracts under this section during the period beginning on the date that is 60 days after the date of enactment of this Act and ending on September 30, 2005.

(g) *DURATION OF CONTRACT.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2) and subsection (h), any contract entered into by producers on a dairy farm under this section shall cover eligible production

marketed by the producers on the dairy farm during the period starting with the first day of month the producers on the dairy farm enter into the contract and ending on September 30, 2005.

(2) VIOLATIONS.—If a producer violates the contract, the Secretary may—

(A) terminate the contract and allow the producer to retain any payments received under the contract; or

(B) allow the contract to remain in effect and require the producer to repay a portion of the payments received under the contract based on the severity of the violation.

(h) TRANSITION RULE.—In addition to any payment that is otherwise available under this section, if the producers on a dairy farm enter into a contract under this section, the Secretary shall make a payment in accordance with the formula specified in subsection (c) on the quantity of eligible production of the producer marketed during the period beginning on December 1, 2001, and ending on the last day of the month preceding the month the producers on the dairy farm entered into the contract.

**SEC. 1503. DAIRY EXPORT INCENTIVE AND DAIRY INDEMNITY PROGRAMS.**

(a) DAIRY EXPORT INCENTIVE PROGRAM.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14(a)) is amended by striking “2002” and inserting “2007”.

(b) DAIRY INDEMNITY PROGRAM.—Section 3 of Public Law 90–484 (7 U.S.C. 450l) is amended by striking “1995” and inserting “2007”.

**SEC. 1504. DAIRY PRODUCT MANDATORY REPORTING.**

Section 272(1) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637a(1)) is amended—

(1) by striking “means manufactured dairy products” and inserting “means—

“(A) manufactured dairy products”;

(2) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(B) substantially identical products designated by the Secretary.”.

**SEC. 1505. FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.**

(a) DEFINITIONS.—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

(1) in subsection (k), by striking “and” at the end;

(2) in subsection (l), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(m) the term ‘imported dairy product’ means any dairy product that is imported into the United States (as defined in subsection (l)), including dairy products imported into the United States in the form of—

“(1) milk, cream, and fresh and dried dairy products;

“(2) butter and butterfat mixtures;

“(3) cheese; and

“(4) casein and mixtures;

*“(n) the term ‘importer’ means a person that imports an imported dairy product into the United States; and*

*“(o) the term ‘Customs’ means the United States Customs Service.”.*

*(b) REPRESENTATION OF IMPORTERS ON BOARD.—Section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)) is amended—*

*(1) by inserting “NATIONAL DAIRY PROMOTION AND RESEARCH BOARD.—” after “(b)”;*

*(2) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively, and indenting the paragraphs appropriately;*

*(3) in paragraph (2) (as so designated), by striking “Members” and inserting “Except as provided in paragraph (6), the members”;*

*(4) by inserting after paragraph (5) (as so designated) the following:*

*“(6) IMPORTERS.—*

*“(A) INITIAL REPRESENTATION.—In making initial appointments to the Board of importer representatives, the Secretary shall appoint 2 members who represent importers of dairy products and are subject to assessments under the order.*

*“(B) SUBSEQUENT REPRESENTATION.—At least once every 3 years after the initial appointment of importer representatives under subparagraph (A), the Secretary shall review the average volume of domestic production of dairy products compared to the average volume of imports of dairy products into the United States during the previous 3 years and, on the basis of that review, shall reapportion importer representation on the Board to reflect the proportional share of the United States market by domestic production and imported dairy products.*

*“(C) ADDITIONAL MEMBERS; NOMINATIONS.—The members appointed under this paragraph—*

*“(i) shall be in addition to the total number of members appointed under paragraph (2); and*

*“(ii) shall be appointed from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.”; and*

*(5) in paragraph (8) (as so designated), by striking “is produced” and inserting “is produced as well as importers of dairy products”.*

*(c) BUDGETS.—Section 113(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)) is amended—*

*(1) by striking “(e)” and inserting:*

*“(e) BUDGETS.—*

*“(1) PREPARATION AND SUBMISSION.—”;*

*(2) by striking the last sentence; and*

*(3) by adding at the end the following:*

*“(2) FOREIGN MARKET EFFORTS.—The order shall authorize the Board to expend in the maintenance and expansion of foreign markets an amount not to exceed the amount collected from United States producers for a fiscal year. Of those funds,*

for each of the 2002 through 2007 fiscal years, the Board's budget may provide for the expenditure of revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced or manufactured in the United States."

(d) *IMPORTER ASSESSMENT.*—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended—

(1) by inserting "ASSESSMENTS.—" after "(g)";

(2) by designating the first through fifth sentences as paragraphs (1) through (5), respectively, and indenting appropriately;

(3) in paragraph (3) (as so designated)—

(A) by inserting "for milk produced in the United States and imported dairy products" after "The rate of assessment"; and

(B) by inserting before the period at the end the following: ", as determined by the Secretary"; and

(4) by adding at the end the following:

"(6) *IMPORTERS.*—

"(A) *IN GENERAL.*—The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

"(B) *TIME FOR PAYMENT.*—The assessment on imported dairy products shall be paid by the importer to Customs at the time the entry documents are filed with Customs. Customs shall remit the assessments to the Board. For purposes of this subparagraph, the term 'importer' includes persons who hold title to foreign-produced dairy products immediately upon release by Customs, as well as persons who act on behalf of others, as agents, brokers, or consignees, to secure the release of dairy products from Customs.

"(C) *USE OF ASSESSMENTS ON IMPORTED DAIRY PRODUCTS.*—Assessments collected on imported dairy products shall not be used for foreign market promotion."

(e) *RECORDS.*—Section 113(k) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(k)) is amended in the first sentence by striking "person receiving" and inserting "importer of imported dairy products, each person receiving".

(f) *IMPORTER ELIGIBILITY TO VOTE IN REFERENDUM.*—Section 116(b) of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 4507(b)) is amended—

(1) in the first sentence—

(A) by inserting after "of producers" the following: "and importers"; and

(B) by inserting after "the producers" the following: "and importers"; and

(2) in the second sentence, by inserting after "commercial use" the following: "and importers voting in the referendum (who have been engaged in the importation of dairy products during the same representative period, as determined by the Secretary)".

(g) *ORDER IMPLEMENTATION AND INTERNATIONAL TRADE OBLIGATIONS.*—Section 112 of the Dairy Promotion Stabilization Act of

1983 (7 U.S.C. 4503) is amended by adding at the end the following:

*“(d) ORDER IMPLEMENTATION AND INTERNATIONAL TRADE OBLIGATIONS.—The Secretary, in consultation with the United States Trade Representative, shall ensure that the order is implemented in a manner consistent with the international trade obligations of the Federal Government.”*

*(h) CONFORMING AMENDMENTS TO REFLECT ADDITION OF IMPORTERS.—The Dairy Production Stabilization Act of 1983 is amended—*

*(1) in section 110(b) (7 U.S.C. 4501(b))—*

*(A) in the first sentence—*

*(i) by inserting after “commercial use” the following: “and on imported dairy products”; and*

*(ii) by striking “products produced in the United States.” and inserting “products.”; and*

*(B) in the second sentence, by inserting after “produce milk” the following: “or the right of any person to import dairy products”; and*

*(2) in section 111(d) (7 U.S.C. 4502(d)), by striking “produced in the United States”.*

**SEC. 1506. FLUID MILK PROMOTION.**

*(a) DEFINITION OF FLUID MILK PRODUCT.—Section 1999C of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402) is amended by striking paragraph (3) and inserting the following:*

*“(3) FLUID MILK PRODUCT.—The term ‘fluid milk product’ has the meaning given the term in—*

*“(A) section 1000.15 of title 7, Code of Federal Regulations, subject to such amendments as may be made by the Secretary; or*

*“(B) any successor regulation.”.*

*(b) DEFINITION OF FLUID MILK PROCESSOR.—Section 1999C(4) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(4)) is amended by striking “500,000 pounds of fluid milk products in consumer-type packages per month” and inserting “3,000,000 pounds of fluid milk products in consumer-type packages per month (excluding products delivered directly to the place of residence of a consumer)”.*

*(c) ELIMINATION OF ORDER TERMINATION DATE.—Section 1999O of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6414) is amended—*

*(1) by striking subsection (a); and*

*(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.*

**SEC. 1507. STUDY OF NATIONAL DAIRY POLICY.**

*(a) STUDY REQUIRED.—The Secretary of Agriculture shall conduct a comprehensive economic evaluation of the potential direct and indirect effects of the various elements of the national dairy policy, including an examination of the effect of the national dairy policy on—*

*(1) farm price stability, farm profitability and viability, and local rural economies in the United States;*

(2) child, senior, and low-income nutrition programs, including impacts on schools and institutions participating in the programs, on program recipients, and other factors; and

(3) the wholesale and retail cost of fluid milk, dairy farms, and milk utilization.

(b) *REPORT.*—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study required by this section.

(c) *NATIONAL DAIRY POLICY DEFINED.*—In this section, the term “national dairy policy” means the dairy policy of the United States as evidenced by the following policies and programs:

(1) Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937.

(2) Interstate dairy compacts (including proposed compacts described in H.R. 1827 and S. 1157, as introduced in the 107th Congress).

(3) Over-order premiums and State pricing programs.

(4) Direct payments to milk producers.

(5) Federal milk price support program established under section 1401.

(6) Export programs regarding milk and dairy products, such as the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14).

**SEC. 1508. STUDIES OF EFFECTS OF CHANGES IN APPROACH TO NATIONAL DAIRY POLICY AND FLUID MILK IDENTITY STANDARDS.**

(a) *FEDERAL DAIRY POLICY CHANGES.*—The Secretary of Agriculture shall conduct a study of the effects of—

(1) terminating all Federal programs relating to price support and supply management for milk; and

(2) granting the consent of Congress to cooperative efforts by States to manage milk prices and supply.

(b) *FLUID MILK IDENTITY STANDARDS.*—The Secretary shall conduct a study of the effects of including in the standard of identity for fluid milk a required minimum protein content that is commensurate with the average nonfat solids content of bovine milk produced in the United States.

(c) *REPORTS.*—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the studies required by this section.

## **Subtitle F—Administration**

**SEC. 1601. ADMINISTRATION GENERALLY.**

(a) *USE OF COMMODITY CREDIT CORPORATION.*—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.