To make supplemental agricultural disaster assistance available for fiscal year 2012 with the costs of such assistance offset by changes to certain conservation programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2012

Mr. LUCAS introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To make supplemental agricultural disaster assistance available for fiscal year 2012 with the costs of such assistance offset by changes to certain conservation programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Agricultural Disaster Assistance Act of 2012”.

SEC. 2. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.

(a) DEFINITIONS.—In this section:
(1) **Eligible producer on a farm.**—

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

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

(i) a citizen of the United States;

(ii) a resident alien;

(iii) a partnership of citizens of the United States; or

(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

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

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

(A) cattle (including dairy cattle);

(B) bison;

(C) poultry;

(D) sheep;
(E) swine;
(F) horses; and
(G) other livestock, as determined by the Secretary.

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

(b) LIVESTOCK INDEMNITY PAYMENTS.—

(1) PAYMENTS.—For fiscal year 2012, the Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality, as determined by the Secretary, due to—

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

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

(2) PAYMENT RATES.—Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market

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value of the applicable livestock on the day before
the date of death of the livestock, as determined by
the Secretary.

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

(c) Livestock Forage Disaster Program.—

(1) Definitions.—In this subsection:

(A) Covered livestock.—

(i) In general.—Except as provided
in clause (ii), the term “covered livestock”
means livestock of an eligible livestock pro-
ducer that, during the 60 days prior to the
beginning date of a qualifying drought or
fire condition, as determined by the Sec-
retary, the eligible livestock producer—

(I) owned;

(II) leased;

(III) purchased;

(IV) entered into a contract to

purchase;
(V) is a contract grower; or

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

(aa) the current production year; or

(bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

(ii) Exclusion.—The term “covered livestock” does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

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

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

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

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

(III) certifies grazing loss; and

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

(ii) **EXCLUSION.**—The term “eligible livestock producer” does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases pastureland or grazing land owned by another person on a rate-of-gain basis.
(D) NORMAL CARRYING CAPACITY.—The term “normal carrying capacity”, with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

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

(2) PROGRAM.—For fiscal year 2012, the Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

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

(B) fire, as described in paragraph (4).
(3) Assistance for losses due to drought conditions.—

(A) Eligible losses.—

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

(I) is native or improved pastureland with permanent vegetative cover;

or

(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

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

(B) Monthly payment rate.—

(i) In general.—Except as provided in clause (ii), the payment rate for assist-
ance under this paragraph for 1 month
shall, in the case of drought, be equal to
60 percent of the lesser of—

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

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

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

(C) Monthly feed cost.—

(i) In general.—The monthly feed
cost shall equal the product obtained by
multiplying—
(I) 30 days;
(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and
(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

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

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

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

(I) the higher of—

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

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

(II) 56.

(D) NORMAL GRAZING PERIOD AND
DROUGHT MONITOR INTENSITY.—

(i) FSA COUNTY COMMITTEE DETER-
MINATIONS.—

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

(II) CHANGES.—No change to
the normal carrying capacity or nor-
mal grazing period established for a
county under subclause (I) shall be
made unless the change is requested
by the appropriate State and county Farm Service Agency committees.

(ii) Drought intensity.—

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

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

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

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

(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON PUBLIC MANAGED LAND.—
(A) In General.—An eligible livestock producer may receive assistance under this paragraph only if—

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

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

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

(C) Payment Duration.—

(i) In General.—Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—

(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using
the managed rangeland for grazing;

and

(II) ending on the last day of the Federal lease of the eligible livestock producer.

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

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

(d) EMERGENCY ASSISTANCE FOR LIVESTOCK, HONEY BEES, AND FARM-RAISED FISH.—

(1) IN GENERAL.—For fiscal year 2012, the Secretary shall use not more than $20,000,000 of the funds of the Commodity Credit Corporation to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease (including cattle tick fever), adverse weather, or other conditions, such as blizzards and wildfires, as determined by the
Secretary, that are not covered under subsection (b) or (e).

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

(3) AVAILABILITY OF FUNDS.—Any funds made available under this subsection shall remain available until expended.

(e) TREE ASSISTANCE PROGRAM.—

(1) DEFINITIONS.—In this subsection:

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

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

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

(2) **ELIGIBILITY.**—

(A) **LOSS.**—Subject to subparagraph (B),
for fiscal year 2012, the Secretary shall use
such sums as are necessary of the funds of the
Commodity Credit Corporation to provide as-
sistance—

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

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

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

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

(A)(i) reimbursement of 70 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

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

(4) LIMITATIONS ON ASSISTANCE.—
(A) Definitions of Legal Entity and Person.—In this paragraph, the terms “legal entity” and “person” have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a)).

(B) Amount.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this subsection may not exceed $100,000 for any crop year, or an equivalent value in tree seedlings.

(C) Acres.—The total quantity of acres planted to trees or tree seedlings for which a person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.

(f) Payment Limitations.—

(1) Definitions of Legal Entity and Person.—In this subsection, the terms “legal entity” and “person” have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a)).

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

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

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

(g) APPLICATION.—This section shall take effect as of October 1, 2011, and apply to losses that are incurred as the result of a disaster, adverse weather, or other environmental condition that occurs on or before September 30, 2012, as determined by the Secretary.

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

(i) REGULATIONS.—

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

(2) Procedure.—The promulgation of the reg-
ulations and administration of this section shall be
made without regard to—

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

(B) chapter 35 of title 44, United States
Code (commonly known as the “Paperwork Re-
duction Act”); and

(C) the Statement of Policy of the Sec-
retary of Agriculture effective July 24, 1971
(36 Fed. Reg. 13804), relating to notices of
proposed rulemaking and public participation in
rulemaking.

(3) Congressional Review of Agency Rule-
making.—In carrying out this subsection, the Sec-
retary shall use the authority provided under section
808 of title 5, United States Code.

SEC. 3. MODIFICATION OF CERTAIN CONSERVATION PRO-
GRAMS.

(a) Conservation Stewardship Program.—Sec-
tion 1238G(d)(1) of the Food Security Act of 1985 (16
U.S.C. 3838g(d)(1)) is amended by inserting “(except
that for fiscal year 2013, the Secretary shall, to the max-
imum extent practicable, enroll in the program an addi-
tional 11,000,000 acres)” before the semicolon.

(b) ENVIRONMENTAL QUALITY INCENTIVES PRO-
gram.—Section 1241(a)(6) of the Food Security Act of
1985 (16 U.S.C. 3841(a)(6)) is amended—

(1) in subparagraph (D), by striking “; and”
and inserting a semicolon; and

(2) by striking subparagraph (E) and inserting
the following:

“(E) $1,750,000,000 in fiscal year 2012;
“(F) $1,400,000,000 in fiscal year 2013;
and
“(G) $1,750,000,000 in fiscal year 2014.”.