

105TH CONGRESS  
1ST SESSION

# H. R. 2068

To provide for the establishment of a multiple-tier price support program for milk to assist milk producers to receive an adequate income from their dairy operations and to support long-term conservation practices by milk producers, while assuring sufficient low-cost dairy products for nutrition assistance programs.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 1997

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

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## A BILL

To provide for the establishment of a multiple-tier price support program for milk to assist milk producers to receive an adequate income from their dairy operations and to support long-term conservation practices by milk producers, while assuring sufficient low-cost dairy products for nutrition assistance programs.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Dairy, Nutrition, and Conservation Act of 1997”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Producer referendum to recommend implementation of milk supply management and nutrition assistance provisions.
- Sec. 3. National Milk Marketing Board.
- Sec. 4. Alternative milk price support and inventory management program.
- Sec. 5. Monitoring activities of National Milk Marketing Board.
- Sec. 6. Financial assistance for environmental conservation compliance by milk producers.
- Sec. 7. Producer export contracts.

3 **SEC. 2. PRODUCER REFERENDUM TO RECOMMEND IMPLE-**  
 4 **MENTATION OF MILK SUPPLY MANAGEMENT**  
 5 **AND NUTRITION ASSISTANCE PROVISIONS.**

6 (a) REFERENDUM.—Not later than 30 days after the  
 7 date of the enactment of this Act, the Secretary of Agri-  
 8 culture shall conduct a referendum to determine whether  
 9 milk producers in the 48 contiguous States favor the im-  
 10 plementation of the alternative milk price support and in-  
 11 ventory management program under section 4 in lieu of  
 12 applying the rate of price support specified in section 141  
 13 of the Agricultural Market Transition Act (7 U.S.C.  
 14 7251).

15 (b) ELIGIBLE VOTERS.—The Secretary shall conduct  
 16 the referendum only among individual milk producers in  
 17 the 48 contiguous States who have been producing milk  
 18 during a representative period, as determined by the Sec-  
 19 retary. The Secretary shall maintain a list of eligible vot-  
 20 ers and make it available upon request. Only individual  
 21 producers may cast ballots in the referendum. An organi-

1 zation or other person representing milk producers, in-  
2 cluding a general farm organization, may not cast ballots  
3 in the referendum on behalf of milk producers.

4 (c) CASTING BALLOTS.—The Secretary shall estab-  
5 lish the methods by which ballots may be cast in the ref-  
6 erendum, except that the referendum shall be conducted  
7 by secret ballot. Bloc voting shall not be permitted. The  
8 voting methods established by the Secretary shall include  
9 casting ballots by mail (subject to appropriate safeguards)  
10 and in person with a representative of the county office,  
11 or another office, of the Consolidated Farm Service Agen-  
12 cy.

13 (d) IMPLEMENTATION REQUIRED.—If the Secretary  
14 determines that a simple majority of the milk producers  
15 voting in the referendum favor the implementation of the  
16 alternative milk price support and inventory management  
17 program under section 4, the Secretary (acting through  
18 the National Milk Marketing Board established by section  
19 3) shall carry out the provisions of such section, beginning  
20 with the first calendar year that begins after the date on  
21 which the referendum is completed. Section 141 of the Ag-  
22 ricultural Market Transition Act (7 U.S.C. 7251) shall not  
23 apply during and after that calendar year.

24 (e) CONFORMING AMENDMENT.—Section 141 of the  
25 Agricultural Market Transition Act (7 U.S.C. 7251) is

1 amended by adding at the end the following new sub-  
2 section:

3 “(i) EFFECT OF IMPLEMENTATION OF ALTERNATIVE  
4 MILK PROGRAM.—Notwithstanding subsection (h), upon  
5 the implementation of the alternative milk price support  
6 and inventory management program under the Dairy, Nu-  
7 trition, and Conservation Act of 1997, if required by sec-  
8 tion 2 of such Act, the support price requirements of  
9 this section shall not apply.”.

10 **SEC. 3. NATIONAL MILK MARKETING BOARD.**

11 (a) ELECTION OF BOARD REQUIRED.—

12 (1) ELECTION.—If the implementation of the  
13 alternative milk price support and inventory man-  
14 agement program under section 4 is approved in the  
15 referendum required by section 2, the Secretary of  
16 Agriculture shall conduct an election for a National  
17 Milk Marketing Board to assist the Secretary in es-  
18 tablishing an adequate national supply and demand  
19 for milk under the alternative milk price support  
20 and inventory management program under section 4.  
21 To the extent practicable, the election shall be con-  
22 ducted not later than 60 days before the date on  
23 which the alternative milk price support and inven-  
24 tory management program takes effect. If the elec-  
25 tion is not completed by that date, or the Board is

1 not capable of participating in the alternative milk  
2 price support and inventory management program  
3 by that date, the Secretary shall temporarily operate  
4 the program until the Board determines that it is  
5 ready to assume its duties under the program.

6 (2) BOARD DEFINED.—For purposes of this  
7 Act, the term “Board” means the National Milk  
8 Marketing Board elected under this section.

9 (b) MEMBERSHIP.—The Board shall consist of 23  
10 members as follows:

11 (1) Fourteen milk producers, two from each re-  
12 gion specified in subsection (c), who shall be elected  
13 by milk producers.

14 (2) Seven representatives of consumers of milk  
15 and milk products, one from each region specified in  
16 subsection (c), who may not be milk producers, but  
17 who shall be elected by milk producers.

18 (3) Two members appointed by the Secretary  
19 from among individuals who have a demonstrable ex-  
20 pertise in the area of milk production, processing, or  
21 marketing.

22 (c) ELECTION PROCESS.—

23 (1) CONDUCT OF ELECTIONS.—The Secretary  
24 shall conduct elections to select the members of the  
25 Board specified in paragraphs (1) and (2) of sub-

1 section (b). A separate election shall be held in each  
2 of the seven geographic regions specified in para-  
3 graph (2) to elect the two milk producer members  
4 and one consumer member from each region. The  
5 initial elections may be conducted by the Secretary  
6 in conjunction with the referendum required under  
7 section 2 to permit the timely establishment of the  
8 Board before the date on which the alternative milk  
9 price support and inventory management program  
10 would take effect.

11 (2) BOARD REGIONS.—For purposes of electing  
12 members for the Board, the 48 contiguous States  
13 shall be organized into seven geographic regions as  
14 follows:

15 (A) California, Oregon, and Washington.

16 (B) Arizona, Arkansas, Colorado, Idaho,  
17 Kansas, Montana, Nevada, New Mexico, Okla-  
18 homa, Texas, Utah, and Wyoming.

19 (C) Iowa, Minnesota, Missouri, Nebraska,  
20 North Dakota, and South Dakota.

21 (D) Wisconsin and Illinois.

22 (E) Alabama, Florida, Georgia, Kentucky,  
23 Louisiana, Mississippi, North Carolina, South  
24 Carolina, Tennessee, and Virginia.

1 (F) Delaware, Indiana, Maryland, Michi-  
2 gan, New Jersey, Ohio, Pennsylvania, and West  
3 Virginia.

4 (G) Connecticut, Maine, Massachusetts,  
5 New Hampshire, New York, Rhode Island, and  
6 Vermont.

7 (3) PROCEDURE FOR ELECTION.—As soon as  
8 practicable after the date of the enactment of this  
9 Act, the Secretary shall conduct a broad-based pub-  
10 licity effort about the election process and solicit the  
11 names of individuals to be included as candidates on  
12 the ballot for the election in each region. The names  
13 of proposed milk producer members may be submit-  
14 ted by milk producers in the region or by organiza-  
15 tions, except that each nominee must be supported  
16 by at least 25 individual milk producer signatures,  
17 and the nominee must be a milk producer who has  
18 sold milk in the past six months. The names of pro-  
19 posed consumer members may be submitted by such  
20 persons as the Secretary considers appropriate.

21 (4) CONFLICT OF INTEREST.—The Secretary  
22 shall reject any nominee to an elected position who  
23 is directly involved in the marketing of dairy prod-  
24 ucts, since the election of such a nominee would cre-  
25 ate a conflict of interest.

1 (5) VOTING BY PRODUCERS.—

2 (A) ELIGIBLE VOTERS.—The Secretary  
3 shall conduct an election in each region to de-  
4 termine the members of the Board from that  
5 region. The election shall be conducted only  
6 among individual milk producers who have been  
7 producing milk during any six months of the  
8 previous year.

9 (B) PROHIBITION ON BLOC VOTING.—Only  
10 individual milk producers may cast ballots in  
11 the election. An organization or other person  
12 representing milk producers, including a gen-  
13 eral farm organization, may not cast ballots in  
14 the election on behalf of milk producers.

15 (C) CASTING BALLOTS.—The Secretary  
16 shall establish the methods by which ballots  
17 may be cast. Such methods shall include casting  
18 ballots by mail (subject to appropriate safe-  
19 guards) and in person with a representative of  
20 the county or other office of the Consolidated  
21 Farm Service Agency.

22 (d) REGIONAL BOARD.—The three members elected  
23 to the Board from each region shall also serve as a Re-  
24 gional Milk Marketing Board for that region.

25 (e) MEETINGS OF THE BOARD.—



1           (1) FIRST MEETING.—Within two weeks after  
2           the completion of the first election of Board mem-  
3           bers under subsection (d) in each region, the Board  
4           shall convene for its initial meeting and elect offi-  
5           cers.

6           (2) OTHER MEETINGS.—The Board shall meet  
7           at the call of the chair, or as requested by the Sec-  
8           retary, but at least once every three months. The  
9           public shall be notified of meetings one month prior  
10          to each meeting.

11         (f) PROCEDURES OF THE BOARD.—

12           (1) QUORUM.—A quorum of the Board shall be  
13           12 members.

14           (2) RULES OF PROCEDURE AND BYLAWS.—The  
15           Board shall adopt written bylaws and rules of proce-  
16           dures to govern its operations.

17           (3) EX OFFICIO REPRESENTATION.—The Board  
18           shall notify the Secretary in advance of each meeting  
19           of the Board. The Secretary, or a representative of  
20           the Secretary, shall attend each meeting as a non-  
21           voting ex officio member of the Board.

22         (g) TERMS; COMPENSATION.—

23           (1) FULL TERM.—Each member of the Board  
24           shall serve a four-year term, except that, for the ini-  
25           tial Board, the member elected under subsection

1 (b)(1) from each region who received the fewer votes  
2 shall serve a two-year term. The consumer members  
3 shall be elected for a four-year term with an alter-  
4 nate nonvoting consumer member. The Secretary  
5 may remove for cause a member from the Board be-  
6 fore the expiration of the term of the member.

7 (2) VACANCIES.—A vacancy on the Board shall  
8 be filled by Secretarial appointment with the term  
9 expiring at the next scheduled election. Regional  
10 boards shall hold regional elections to fill vacancies.

11 (3) TERM LIMITS.—A member of the Board  
12 may not serve on the Board for more than two con-  
13 secutive full terms or a total of eight years, which-  
14 ever occurs first. However, a member of the Board  
15 subject to the preceding sentence shall become eligi-  
16 ble for reelection or reappointment to the Board  
17 upon the expiration of the four-year period begin-  
18 ning on the date the member became ineligible for  
19 the Board under such sentence.

20 (4) REIMBURSEMENT FOR EXPENSES.—The  
21 members of the Board shall serve without compensa-  
22 tion, but shall be reimbursed for reasonable expenses  
23 incurred in performing their duties as members of  
24 the Board, including a per diem.

25 (h) DUTIES.—

1           (1) PARTICIPATION IN DAIRY PROGRAM.—The  
2       Board shall assist the Secretary in implementing,  
3       administering, and operating the alternative milk  
4       price support and inventory management program  
5       under section 4. The program shall remain under  
6       the final authority and control of the Secretary.

7           (2) MONITORING ACTUAL PRICE RECEIVED BY  
8       PRODUCERS.—The Board may monitor actual prices  
9       received by representative producers for milk pro-  
10      duced in the 48 contiguous States and marketed for  
11      domestic use in order to compare those prices with  
12      the rate of price support for milk in effect for that  
13      month and dairy prices at the processor and retail  
14      levels. The Board shall publish and disseminate re-  
15      ports regarding the results of this monitoring.

16      (i) POWERS.—The Board shall have such incidental  
17      powers consistent with the requirements of this section  
18      and section 4 as the Secretary may prescribe. Such powers  
19      shall include the power to hire such staff and incur such  
20      other administrative expenses as necessary to meet the re-  
21      sponsibilities of the Board.

22      (j) FUNDING AND BUDGETS.—

23           (1) BOARD FUNDS; OPERATING ASSESSMENT.—  
24      Consistent with the approved budget of the Board,  
25      funds of the Commodity Credit Corporation shall be

1 available to pay for activities under this section and  
2 section 4. In order to ensure adequate Commodity  
3 Credit Corporation funds to finance Board activities,  
4 all producers of milk produced in the continental  
5 United States and marketed for commercial use  
6 shall be assessed a National Milk Marketing Board  
7 operating fee, not to exceed 1.5 cents per hundred-  
8 weight of milk produced.

9 (2) BUDGETS AND OPERATING PLANS.—The  
10 Board shall submit to the Secretary its proposed an-  
11 nual budget and plan of operations for each calendar  
12 year in which it operates. The budget and plan of  
13 operations shall be subject to the approval of the  
14 Secretary, and the Secretary may require such  
15 changes in the budget or plan of operations as the  
16 Secretary considers to be necessary. The Board may  
17 not enter into any obligations or expend any funds  
18 for a year, except as authorized in the budget for  
19 the year approved by the Secretary.

20 (k) BOOKS AND RECORDS OF THE BOARD.—

21 (1) RECORDKEEPING AND ACCOUNTING RE-  
22 QUIREMENTS.—The Board shall—

23 (A) maintain such books and records,  
24 which shall be available to the Secretary for in-

1           specification and audit, as the Secretary may pre-  
2           scribe;

3           (B) prepare and submit to the Secretary  
4           such reports as the Secretary may prescribe;  
5           and

6           (C) account for the receipt and disburse-  
7           ment of all funds entrusted to the Board.

8           (2) ANNUAL INDEPENDENT AUDITS.—The  
9           Board shall cause its books and records to be au-  
10          dited by an independent auditor at the end of each  
11          calendar year and a report of such audit to be sub-  
12          mitted to the Secretary. The Secretary shall make  
13          such report available to the public upon request.

14          (3) ACCESS BY COMPTROLLER GENERAL.—The  
15          Comptroller General and the duly authorized rep-  
16          resentatives of the Comptroller General shall have  
17          access to and the right to examine all books, docu-  
18          ments, papers, records, or other recorded informa-  
19          tion within the possession or control of the Board.

20       **SEC. 4. ALTERNATIVE MILK PRICE SUPPORT AND INVEN-**  
21       **TORY MANAGEMENT PROGRAM.**

22          (a) PRICE SUPPORT RATE TO REFLECT COST OF  
23       PRODUCTION.—

24          (1) ANNUAL ADJUSTMENT.—The price of milk  
25       shall be supported at a rate established by the Sec-

1       retary of Agriculture and adjusted annually to re-  
2       flect the cost of production for milk producers.

3               (2) DETERMINATION OF COST OF PRODUC-  
4       TION.—To determine the cost of milk production on  
5       a per hundredweight basis, the Secretary shall con-  
6       sider the following:

7               (A) The latest cash cost of production (as  
8       estimated by the Secretary), adjusted annually  
9       by the wholesale price index.

10              (B) Domestic market/nutrition assistance  
11       adjustments equal to 7.5 percent of adjusted  
12       cash cost of production.

13              (C) Return on investment established at 8  
14       percent of 70 percent of total farm assets (as  
15       estimated by the Secretary) figured on a per  
16       hundredweight basis.

17              (D) Cost of conservation and environ-  
18       mental requirements and improvements as de-  
19       termined by the Secretary on a per hundred-  
20       weight basis, prorated over a 10-year period.

21              (3) BASIC FORMULA PRICE AND CLASS DIF-  
22       FERENTIALS.—

23              (A) CALCULATION.—The basic formula  
24       price shall be equal to the sum of subpara-  
25       graphs (A), (B), (C) of paragraph (2). If the

1 sum of such subparagraphs is at least \$14 per  
2 hundredweight, then the Secretary may also  
3 factor in the cost of conservation improvements  
4 determined under subparagraph (D) of para-  
5 graph (2).

6 (B) CLASS III.—Milk used for products of  
7 milk listed as Class III products shall receive a  
8 price not lower than the basic formula price per  
9 hundredweight.

10 (C) CLASS II.—Milk used for products of  
11 milk listed as Class II products shall receive a  
12 price equal to Class III products plus a dif-  
13 ferential of 30 cents per hundredweight.

14 (D) CLASS I.—Milk used for products of  
15 milk listed as Class I products shall receive a  
16 price equal to—

17 (i) the basic formula price; plus

18 (ii) an amount determined by a for-  
19 mula based on a nine-hour day (milk relat-  
20 ed labor) multiplied by 365 days and gross  
21 hourly earnings MFR Labor (based on cal-  
22 culations of the Bureau of Labor Statis-  
23 tics) and divided by 1,500,000 pounds  
24 (which is the equivalent of 15,000 hun-

1                   dredweight, the estimated 1995 average  
2                   production per farm).

3                   (E) APPLICATION.—The Class I price dif-  
4                   ferential determined under subparagraph (D)  
5                   shall be used in all Federal and State milk mar-  
6                   keting orders in operation in the 48 contiguous  
7                   States.

8           (b) MILK PRODUCTION AND CONSUMPTION ESTI-  
9   MATE.—

10           (1) ANNUAL ESTIMATE.—Not later than No-  
11           vember 20 of each calendar year, the Secretary, in  
12           consultation with the Board, shall publish in the  
13           Federal Register an estimate of—

14                   (A) the amount of milk and the products  
15                   of milk in pounds (on a milk equivalent, total  
16                   milk solids basis) necessary to satisfy domestic  
17                   consumption, government domestic assistance  
18                   programs, of milk during the following calendar  
19                   year and maintain a reasonable milk reserve;

20                   (B) the amount of milk and the products  
21                   of milk in pounds (on a milk equivalent, total  
22                   milk solids basis) to be produced in the 48 con-  
23                   tiguous States during the following year; and

24                   (C) the amount of milk and the products  
25                   of milk in pounds (on a milk equivalent, total



1 milk solids basis) that the Commodity Credit  
2 Corporation would purchase during the follow-  
3 ing calendar year under this section.

4 (2) RULES FOR ESTIMATE.—When making an  
5 estimate under this subsection, the Secretary shall—

6 (A) consider any existing inventory man-  
7 agement programs to balance domestic supply  
8 and demand; and

9 (B) consider conditions affecting import  
10 projections of all dairy products.

11 (c) MILK MARKETING ALLOCATION FACTOR.—On  
12 the basis of the estimates prepared under subsection  
13 (b)(1) for a calendar year, the Board shall develop a milk  
14 marketing allocation factor for the purpose of determining  
15 milk producer bases for that year and submit to the Sec-  
16 retary. The milk marketing allocation factor shall be equal  
17 to the ratio of subparagraphs (A) and (C) of subsection  
18 (b)(1) to subparagraph (B) of such subsection.

19 (d) MILK MARKETING HISTORIES.—

20 (1) PRODUCER TO INCLUDE CERTAIN MILK  
21 PRODUCERS USING ANOTHER'S LAND.—For pur-  
22 poses of this section, the term “producer” includes  
23 a person who is actively engaged in a dairy oper-  
24 ation on a farm, as a full-time occupation (as evi-  
25 denced by the person's contribution of active per-

1       sonal labor and dairy cows to the operation), al-  
2       though the person uses the land, equipment, or fa-  
3       cilities of another person.

4               (2) ONE- OR FIVE-YEAR AVERAGE.—Upon the  
5       implementation of this Act, the Secretary shall as-  
6       sign to each producer of milk a milk marketing his-  
7       tory equal (at the producer’s option) to—

8               (A) the quantity of milk marketed by the  
9       producer during the calendar year preceding the  
10      enactment of such Act; or

11              (B) the average quantity of milk marketed  
12      by the producer during the five calendar years  
13      preceding the enactment of such Act, excluding  
14      the year in which the largest quantity was mar-  
15      keted and the year in which the smallest quan-  
16      tity was marketed.

17              (3) AMOUNTS PRODUCED.—For purposes of de-  
18      termining the milk marketing history of a producer  
19      under paragraph (2), all milk marketed by the pro-  
20      ducer from all farms of the producer for the cal-  
21      endar years involved shall be counted.

22              (4) USE OF COUNTY COMMITTEES.—Subject to  
23      paragraph (5), county and other committees estab-  
24      lished under section 8(b)(5) of the Soil Conservation  
25      and Domestic Allotment Act (16 U.S.C. 590h(b)(5))

1 shall be responsible for local administration of the  
2 alternative milk price support and inventory man-  
3 agement programs.

4 (5) COUNTY DAIRY COMMITTEE.—

5 (A) ELECTION.—Milk producers in each  
6 county shall elect a separate dairy committee  
7 who are active milk producers. This committee  
8 shall be responsible for decisions concerning  
9 market history allocation and appeals. Counties  
10 that have fewer than 50 active milk producers  
11 shall join with other counties in order to com-  
12 pose an adequate dairy committee. This com-  
13 mittee shall serve milk producers in the com-  
14 bined counties and adopt a single Consolidated  
15 Farm Service Agency office to perform their  
16 duties. Each committee shall consist of five  
17 milk producers with a one-year term of office.

18 (B) COMPENSATION.—The members of a  
19 dairy committee shall be entitled to per diem  
20 and mileage reimbursement in the same manner  
21 as committees referred to in paragraph (4), and  
22 subject to the same hourly limitations.

23 (C) FUNDING.—The Board shall make  
24 funds available to an appropriate official of the

1 Consolidated Farm Service Agency to finance  
2 the cost of the dairy committees.

3 (6) NONTRANSFERABILITY; EXCEPTIONS.—A  
4 producer's marketing history may not be transferred  
5 (by sale, lease, gift, devise, or other method) except  
6 as follows:

7 (A) There is no restriction on the ability of  
8 a producer who is an individual to transfer the  
9 marketing history of the producer to an imme-  
10 diate family member (such as the spouse, par-  
11 ent, brother or sister, or child of the producer  
12 or a person to whom the producer stands in  
13 loco parentis) for use on the same farm.

14 (B) There is no restriction on the ability of  
15 a producer to sell, lease, or otherwise transfer  
16 the Class I base of the producer for a farm in  
17 areas in which Class I bases have been estab-  
18 lished.

19 (C) The relevant dairy committee shall  
20 permit a producer to reestablish the marketing  
21 history of a farm owned or leased by the pro-  
22 ducer at another farm owned or leased by the  
23 same producer.

24 (D) The relevant dairy committee may ap-  
25 prove the transfer of the marketing history of

1 a producer (for use on the same farm or an-  
2 other farm) to prevent extreme hardship.

3 (E) Any producer with a marketing history  
4 shall be allowed to relocate the marketing his-  
5 tory to another location in the 48 contiguous  
6 States upon notification of the dairy committee  
7 for the new location.

8 (7) SET-ASIDE OF UNUSED MARKETING HIS-  
9 TORY FOR DAIRY COMMITTEES.—Subject to transfer  
10 options specified in paragraph (6), if a producer in  
11 a county receives a milk marketing history under  
12 this subsection and ceases the production of milk  
13 during any subsequent calendar year, the portion of  
14 that milk marketing history remaining unused shall  
15 be available to the dairy committee in which the pro-  
16 ducer is located for transfer among eligible produc-  
17 ers on an equitable basis in accordance with this  
18 paragraph. The dairy committee shall transfer any  
19 milk marketing history available to the committee  
20 under this paragraph to persons (excluding nonfarm  
21 corporations and investors) in the following order of  
22 priority:

23 (A) New milk producers described in para-  
24 graph (8).

1 (B) Producers in the county whose milk  
2 marketing history for the calendar year involved  
3 is less than 1,000,000 pounds for each pro-  
4 ducer.

5 (C) Milk producers who have been in oper-  
6 ation for less than 5 years.

7 (D) Other producers in the county.

8 (E) Other producers in the region in which  
9 the county is located, to be recommended by the  
10 relevant regional milk marketing board estab-  
11 lished under section 3.

12 (F) Other regions of the Continental Unit-  
13 ed States.

14 (8) NEW OR REENTRY PRODUCERS.—The rel-  
15 evant dairy committee shall assign to a new milk  
16 producer a milk marketing history at a reasonable  
17 level taking into consideration the milk marketing  
18 histories of similarly situated producers in the coun-  
19 ty and the availability of excess milk marketing his-  
20 tories for distribution by the committee under para-  
21 graph (7). The term “new milk producer” means a  
22 person who does not have a milk marketing history  
23 and is purchasing production units (cows or a farm)  
24 or who previously relinquished the producer’s milk  
25 marketing history.

1           (9) SCHEME OR DEVICE.—If the Secretary  
2       makes a final determination that a producer has  
3       adopted a scheme or device to inflate the milk mar-  
4       keting history of the producer or to evade reductions  
5       in price required under this section, the producer  
6       shall be ineligible for two calendar years to receive  
7       any marketing history under this subsection or to re-  
8       ceive any domestic production base under subsection  
9       (e). A producer shall have the right to appeal an ad-  
10      verse decision under this paragraph in the manner  
11      provided by subtitle H of title II of the Federal Crop  
12      Insurance Reform and Department of Agriculture  
13      Reorganization Act of 1994 (7 U.S.C. 6991 et seq.).  
14      (e) DETERMINATION OF DOMESTIC PRODUCTION  
15      BASE.—

16           (1) NOTIFICATION.—Before January 1 of each  
17      calendar year, the Secretary, in consultation with  
18      the Board, shall notify each milk producer in the 48  
19      contiguous States of the domestic production base of  
20      the producer for that year.

21           (2) MARKETING HISTORY EQUAL TO OR UNDER  
22      1,000,000 POUNDS.—If the milk marketing history  
23      determined under subsection (d) for a milk producer  
24      does not exceed 1,000,000 pounds, the domestic pro-

1       duction base for the producer shall be equal to the  
2       product of—

3               (A) the milk marketing history of the pro-  
4       ducer; and

5               (B) the milk marketing allocation factor  
6       determined for that year under subsection (c)  
7       or one, whichever is greater.

8       (3)   MARKETING   HISTORY   IN   EXCESS   OF  
9       1,000,000   POUNDS.—If the milk marketing history  
10      determined under subsection (d) for a milk producer  
11      exceeds 1,000,000 pounds, the domestic production  
12      base for the producer shall be equal to the sum of—

13             (A) 1,000,000 pounds; and

14             (B) the product of—

15               (i) the milk marketing history of the  
16       producer (reduced by 1,000,000 pounds);  
17       and

18               (ii) the milk marketing allocation fac-  
19       tor determined for that year under sub-  
20       section (c).

21       (4)   REDUCTION   FOR   DISUSE.—Any producer  
22       who produces less than the producer's domestic pro-  
23       duction base for two consecutive years (except in the  
24       case of a disaster) shall have the producer's domes-  
25       tic marketing base reduced to an amount equal to



1 the average of the two lower years. The amount of  
2 base reduction shall then be reallocated by the rel-  
3 evant dairy committee.

4 (f) DESIGNATION OF NUTRITION ASSISTANCE  
5 BASE.—

6 (1) PURPOSE OF BASE.—To assure adequate  
7 quantities of low-cost milk and milk products for the  
8 Commodity Credit Corporation for distribution  
9 through nutrition assistance programs, the Sec-  
10 retary, in consultation with the Board, shall assign  
11 to each milk producer a nutrition assistance base for  
12 each calendar year. The nutrition assistance base  
13 shall be part of the domestic production base of the  
14 producer. The Commodity Credit Corporation shall  
15 offer to purchase from each purchaser, at the re-  
16 duced price specified in subsection (g)(1), a quantity  
17 of milk corresponding to the nutrition assistance  
18 base of the producer.

19 (2) DETERMINATION.—The nutrition assistance  
20 base for a producer shall be equal to not more than  
21 five percent of the domestic production base of the  
22 producer under subsection (e).

23 (3) NOTIFICATION.—The notification required  
24 to be provided to milk producers under subsection  
25 (e)(1) for each calendar year shall also include the

1 nutrition assistance base for the producers for that  
 2 year.

3 (g) DAIRY NUTRITION ASSISTANCE PRICE REDUC-  
 4 TION.—

5 (1) PRICE REDUCTION.—All milk producers in  
 6 the 48 contiguous States shall receive a reduced  
 7 price for that percentage of their domestic produc-  
 8 tion base that is determined by the Secretary, in  
 9 consultation with the Board, to be required to fulfill  
 10 the needs of domestic nutrition assistance programs.  
 11 The amount of reduction under this subsection shall  
 12 be equal to the product of—

13 (A) 70 percent of the rate of price support  
 14 for milk per hundredweight in effect for that  
 15 calendar year for the class of milk involved; and

16 (B) the quantity of milk (in hundred-  
 17 weight) so marketed.

18 (2) DURATION.—These reductions shall be  
 19 made on a monthly basis until the producer's total  
 20 nutrition assistance base has been fulfilled.

21 (h) EXCESS PRODUCTION.—

22 (1) USE AS EXPORTS.—If a milk producer in  
 23 the 48 contiguous States produces milk in excess of  
 24 the domestic production base of the producer, the

1 producer may dispose of such excess production only  
2 on the export market as provided in section 7.

3 (2) PENALTIES.—If any person fails to comply  
4 with the requirements of paragraph (1) regarding  
5 the disposal of excess production, the person shall be  
6 liable for a civil penalty up to an amount determined  
7 by multiplying—

8 (A) the quantity of milk involved in the  
9 violation; by

10 (B) 80 percent of the rate of price support  
11 for milk per hundredweight in effect for that  
12 calendar year for the class of milk involved in  
13 the violation.

14 (3) ENFORCEMENT.—The Secretary may en-  
15 force paragraph (2) in the courts of the United  
16 States.

17 (4) PRODUCT AND PENALTY DISTRIBUTION.—

18 (A) USE OF ACQUIRED MILK.—Products of  
19 milk purchased by the Commodity Credit Cor-  
20 poration under this subsection shall be used for  
21 United States foreign food assistance programs.

22 (B) USE OF PAYMENTS.—Penalty pay-  
23 ments received by the Commodity Credit Cor-  
24 poration under this subsection shall be used to  
25 help fund the Dairy Export Incentive Program.

1 **SEC. 5. MONITORING ACTIVITIES OF NATIONAL MILK MAR-**  
2 **KETING BOARD.**

3 (a) MONITORING ACTIVITIES.—The National Milk  
4 Marketing Board shall continuously monitor—

5 (1) the relationship between the price received  
6 by milk producers for sales of milk, the profits re-  
7 ceived by processors of milk and milk products, and  
8 the prices paid by consumers for milk and milk  
9 products; and

10 (2) the actual need of nutrition assistance pro-  
11 grams of the United States for milk and milk prod-  
12 ucts.

13 (b) REPORTING.—Not less than twice annually, the  
14 Board shall submit to Congress the results of its monitor-  
15 ing activities under subsection (a).

16 **SEC. 6. FINANCIAL ASSISTANCE FOR ENVIRONMENTAL**  
17 **CONSERVATION COMPLIANCE BY MILK PRO-**  
18 **DUCERS.**

19 (a) FUNDS FOR ENVIRONMENTAL CONSERVATION  
20 COMPLIANCE.—To encourage environmentally sound con-  
21 servation practices by milk producers in the 48 contiguous  
22 States, the Secretary of Agriculture shall determine the  
23 amount of money, on a per hundredweight of milk basis,  
24 that would cover the cost of environmentally sound con-  
25 servation practices by such milk producers mandated by  
26 Federal, State, or local laws.

1       (b) AVAILABILITY.—To the extent funds are available  
2 under subsection (d) to carry out this section, such funds  
3 shall be provided to milk producers on an annual basis,  
4 subject to Consolidated Farm Service Agency committee  
5 approval. Amounts provided under this subsection shall be  
6 in addition to any Federal cost share payments made to  
7 milk producers under any other law.

8       (c) AMOUNT OF PAYMENTS.—State and county Con-  
9 solidated Farm Service Agency committees shall deter-  
10 mine which farm practices for which payments are appli-  
11 cable to each milk producer based on the producer's farm  
12 plan and other factors. Payments to each milk producer  
13 shall be based on the economic cost of obtaining and main-  
14 taining compliance and the number of programs in which  
15 the producer participates.

16       (d) DEDUCTION.—The amount of money involved  
17 shall be considered an environmental conservation compli-  
18 ance fee deducted from the Federal or State order pool  
19 prior to the computation of the Federal order price. These  
20 deductions shall be made and held in escrow by the State  
21 Consolidated Farm Service Agency director in the State  
22 of the producer's residence until compliance payments are  
23 made. In the case of nonregulated areas, provisions shall  
24 be made for environmental conservation compliance fees

1 to be deducted by the State Regulatory Commission in-  
2 volved or the State Commissioner of Agriculture.

3 (e) ENVIRONMENTAL CONSERVATION COMPLIANCE  
4 PROGRAMS.—Environmental conservation compliance pro-  
5 grams shall include at least the following:

6 (1) Manure management systems and  
7 composting systems.

8 (2) Waste water management.

9 (3) Wetland conservation practices.

10 (4) Pesticide and herbicide alternatives.

11 (5) Rotational grazing.

12 (6) Green strips.

13 **SEC. 7. PRODUCER EXPORT CONTRACTS.**

14 (a) EXPORT CONTRACTS.—Any milk producer in the  
15 48 contiguous States shall be allowed to contract directly  
16 (or indirectly through another person) any volume of milk  
17 in hundredweights or products of milk at a predetermined  
18 price agreed to by all parties involved for the sole purpose  
19 of export out of the United States.

20 (b) SUBMISSION OF CONTRACTS.—A milk producer  
21 shall make copies of each export contract entered into  
22 under this section available to—

23 (1) the Federal and State market administrator  
24 involved; and

1           (2) the relevant committee of the Consolidated  
2       Farm Service Agency with oversight of that produc-  
3       er's domestic production base.

4       (c) SCHEME OR DEVICE.—If the Secretary deter-  
5       mines that a person has adopted a scheme or device that  
6       would circumvent the isolation of export contract milk,  
7       that person shall be ineligible to participate in any Govern-  
8       ment programs for the following two years.

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