

106TH CONGRESS
1ST SESSION

H. R. 921

To direct the Secretary of Agriculture to provide emergency market loss assistance to swine producers for losses incurred due to economic and market conditions in the United States beyond their control that occurred during a three-month period in 1998, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 1999

Mr. LAHOOD introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Agriculture to provide emergency market loss assistance to swine producers for losses incurred due to economic and market conditions in the United States beyond their control that occurred during a three-month period in 1998, 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,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Swine Producers Market Loss Assistance Act of 1999”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Market loss assistance.
- Sec. 5. Payment amounts and payment limitations.
- Sec. 6. Relationship to other payments.
- Sec. 7. Emergency requirement; use of Commodity Credit Corporation.
- Sec. 8. Mandatory livestock market reporting.
- Sec. 9. Regulations.

3 **SEC. 2. FINDINGS AND PURPOSES.**

4 (a) FINDINGS.—Congress finds the following:

5 (1) The marketing relationships of swine pro-
 6 ducers with meat packers have undergone significant
 7 changes in recent years, and these changes have had
 8 an adverse effect on the prices swine producers re-
 9 ceive for swine.

10 (2) The concentration of the meat packing in-
 11 dustry as it relates to swine slaughter and process-
 12 ing, and the increase in the number of live swine im-
 13 ported into the United States for slaughter and
 14 processing, have had an adverse effect on the avail-
 15 ability of slaughter capacity in the United States
 16 and have adversely affected the price of swine in the
 17 United States.

18 (3) A swine market price crisis occurred in the
 19 United States during the period beginning on Octo-
 20 ber 1, 1998, through December 31, 1998, which can
 21 be summarized as resting on three salient facts:

1 (A) A 10 percent increase in swine avail-
2 able for slaughter during the period.

3 (B) An eight percent decrease over the
4 prior year in packer slaughter capacity.

5 (C) A 37 percent increase in Canadian
6 swine imports into the United States during the
7 period.

8 (4) The fourth quarter of 1998 (adjusted for
9 inflation) registered the lowest live swine prices in
10 the United States spot market for the 20th century,
11 averaging 37 percent lower than 1932.

12 (5) Swine producers had approximately
13 \$2,600,000,000 in equity capital investment reduc-
14 tion in 1998 in the value of their production owner-
15 ship.

16 (6) According to Ron Plain, University of Mis-
17 souri Extension Economist, swine producers' share
18 of the consumer pork dollar was approximately
19 \$0.22 in 1998, and 1998 was the first year since
20 records have been maintained that swine producers
21 received less than 30 percent of the consumer dollar
22 spent for pork and pork products.

23 (7) Despite relatively little change in retail
24 prices for pork and pork products, consumption of
25 pork and pork products increased seven percent in

1 1998, and such products were the only meat protein
2 that reflected a net per capita consumption increase
3 in 1998 over 1997.

4 (b) PURPOSE.—The purpose of this Act is to partially
5 compensate swine producers who, due to circumstances be-
6 yond their control, incurred substantial losses in the mar-
7 keting of their swine during the fourth quarter of 1998
8 as a result of—

9 (1) adverse economic factors in the swine mar-
10 ket; and

11 (2) the failure of the Federal Government to
12 pursue foreign trade opportunities and to obtain co-
13 operative limitations on imports that substantially
14 and adversely affected an industry already under
15 stressed market pricing conditions.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) The term “swine” means the porcine animal
19 raised for feeder pigs or slaughter produced solely in
20 the United States.

21 (2) The term “swine producer” means a person
22 in the United States who, during the crisis period,
23 produced swine for feeder pigs or slaughter.

1 (3) The term “crisis period” means during the
2 period beginning on October 1, 1998, through De-
3 cember 31, 1998.

4 (4) The term “packer” has the meaning given
5 the term in section 201 of the Packers and Stock-
6 yards Act, 1921 (7 U.S.C. 191).

7 (5) The term “feeder pig” means young swine
8 that were sold, during the crisis period, to another
9 person for further feeding for a period of more than
10 one month.

11 (6) The term “swine operation” means any per-
12 son or group of persons who, as a single unit, raised
13 swine during the crisis period and whose production
14 and facilities are located in the United States.

15 (7) The term “Secretary” means the Secretary
16 of Agriculture.

17 **SEC. 4. MARKET LOSS ASSISTANCE.**

18 (a) PROVISION OF ASSISTANCE.—As provided in sec-
19 tion 7(b), the Secretary of Agriculture shall administer a
20 program to provide financial assistance to swine producers
21 to partially offset financial market losses they incurred on
22 swine they sold during the crisis period.

23 (b) ELIGIBILITY FOR PAYMENTS.—Except as pro-
24 vided in subsection (c), to be eligible for assistance under
25 this Act, a swine producer must have maintained a swine

1 operation during the crisis period and marketed swine for
2 slaughter or the equivalent thereof for feeder pigs during
3 the crisis period.

4 (c) CERTAIN PRODUCERS INELIGIBLE.—The follow-
5 ing swine producers are ineligible for assistance under this
6 Act:

7 (1) A swine producer that is a subsidiary of a
8 publicly owned packer.

9 (2) A swine producer that is wholly or substan-
10 tially owned by companies or corporations affiliated
11 with a publicly owned packer.

12 (3) A swine producer that is otherwise directly
13 or indirectly controlled by a publicly owned packer.

14 (d) APPLICATION PROCESS.—In administering this
15 Act, the Secretary shall limit the assistance to eligible
16 swine producers by an application procedure or otherwise,
17 as provided in this Act, and as further delineated in regu-
18 lations consistent with this Act. The swine producer shall
19 submit such information to the Secretary in support of
20 the application as the Secretary may require to enable the
21 Secretary to make an eligibility determination for assist-
22 ance under this Act.

23 **SEC. 5. PAYMENT AMOUNTS AND PAYMENT LIMITATIONS.**

24 (a) FAIR AND EQUITABLE DISTRIBUTION.—Assist-
25 ance made available under this Act shall be distributed

1 in a fair and equitable manner to swine producers, either
2 those for slaughter or the equivalent thereof for feeder
3 pigs and other swine, who have incurred losses in their
4 operations in all geographic regions of the United States.

5 (b) AMOUNT OF PAYMENTS.—

6 (1) PER SWINE.—The amount of assistance to
7 be paid to a eligible swine producer shall not exceed
8 \$25.00 per slaughter-weight swine that was mar-
9 keted by the producer during the crisis period, ex-
10 cept that the payment for feeder pigs shall not ex-
11 ceed \$9.00 per feeder pig marketed during the crisis
12 period, as provided by regulations issued by the Sec-
13 retary consistent with this Act.

14 (2) CALCULATION.—Subject to subsection (c),
15 payments made to swine operation producers under
16 this Act shall be calculated in an amount determined
17 by—

18 (A) multiplying the number of eligible
19 swine marketed and slaughtered during the cri-
20 sis period by \$25.00;

21 (B) adding to the amount in subparagraph
22 (A) the sum of the number of eligible feeder
23 pigs, if any, marketed during the crisis period
24 multiplied by \$9.00; and

1 (C) deducting payments received in the
2 program specified in section 6(b) by the pro-
3 ducer.

4 (c) PAYMENT LIMITATIONS.—Payments may not ex-
5 ceed \$50,000 per swine operation for a swine producer.

6 **SEC. 6. RELATIONSHIP TO OTHER PAYMENTS.**

7 (a) ASSISTANCE IN ADDITION TO OTHER PAY-
8 MENTS.—Assistance provided under this Act is in addition
9 to—

10 (1) assistance made available under subtitles A,
11 B, and C of title XI of the Agriculture, Rural Devel-
12 opment, Food and Drug Administration, and Relat-
13 ed Agencies Appropriations Act, 1999 (as contained
14 in section 101(a) of division A of Public Law 105–
15 277; 7 U.S.C. 1421 note);

16 (2) payments or loans obtained by a person
17 under the Agricultural Market Transition Act (7
18 U.S.C. 7201 et seq.);

19 (3) payments received by a person for the 1998
20 crop year under the noninsured crop assistance pro-
21 gram established under section 196 of such Act (7
22 U.S.C. 7333);

23 (4) crop insurance indemnities provided for
24 1998 crops under the Federal Crop Insurance Act
25 (7 U.S.C. 1501 et seq.); and

1 (5) emergency loans made available for 1998
2 production under subtitle C of the Consolidated
3 Farm and Rural Development Act (7 U.S.C. 1961
4 et seq.).

5 (b) PAYMENTS UNDER SMALL HOG OPERATION
6 PROGRAM.—Assistance and payments made to swine pro-
7 ducers under the Small Hog Operation Program of the
8 Department of Agriculture, as announced January 8,
9 1999, using funds available under section 32 of the Act
10 of August 24, 1935 (7 U.S.C. 612c), shall be deducted
11 from payments made to swine producers under this Act.

12 **SEC. 7. EMERGENCY REQUIREMENT; USE OF COMMODITY**
13 **CREDIT CORPORATION.**

14 (a) DESIGNATION BY CONGRESS AS AN EMERGENCY
15 REQUIREMENT.—Notwithstanding the last sentence of
16 section 251(e) of the Balanced Budget and Emergency
17 Deficit Control Act of 1985, amounts made available by
18 this Act are designated by Congress as an emergency re-
19 quirement pursuant to section 251(e) of the Balanced
20 Budget Deficit Control Act of 1985.

21 (b) COMMODITY CREDIT CORPORATION.—The Sec-
22 retary shall use the funds, facilities, and authorities of the
23 Commodity Credit Corporation to carry out the provisions
24 of this Act (other than the amendments made by section
25 8).

1 **SEC. 8. MANDATORY LIVESTOCK MARKET REPORTING.**

2 (a) REPORTING REQUIRED.—The Agricultural Mar-
3 keting Act of 1946 is amended by inserting after section
4 203 (7 U.S.C. 1622) the following new section:

5 **“SEC. 203A. MANDATORY LIVESTOCK MARKET REPORTING.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) LIVESTOCK.—The term ‘livestock’ means
8 cattle, sheep, and swine, whether live or dead.

9 “(2) LIVESTOCK PRODUCT.—The term ‘live-
10 stock product’ means any product or byproduct pro-
11 duced or processed in whole or in part from live-
12 stock, including boxed beef, boxed lamb, and any
13 value-added product derived from pork.

14 “(3) PACKER.—Subject to subsection (b)(1),
15 the term ‘packer’ means any person engaged in the
16 business of—

17 “(A) buying livestock in commerce for pur-
18 poses of slaughter;

19 “(B) manufacturing or preparing livestock
20 products for sale or shipment in commerce; or

21 “(C) marketing livestock products in an
22 unmanufactured form acting as a wholesale
23 broker, dealer, or distributor in commerce.

24 “(4) PRICES, VOLUME, AND TERMS OF SALE.—
25 The term ‘prices, volume, and terms of sale’ includes
26 base price, premium and discount price factors, for-

1 mula-based pricing systems, quality characteristics
2 (including percent lean and carcass weight), and any
3 current or future contract offered by a packer.

4 “(5) SECRETARY.—The term ‘Secretary’ means
5 the Secretary of Agriculture.

6 “(b) MANDATORY REPORTING REQUIRED.—

7 “(1) PACKERS SUBJECT TO REQUIREMENT.—
8 This subsection applies only to a packer that the
9 Secretary estimates is engaged in the business of
10 buying, manufacturing, preparing, or marketing
11 more than five percent (by daily volume) of—

12 “(A) all cattle, all sheep, or all swine that
13 are bought, prepared, or marketed in the
14 United States;

15 “(B) all livestock products that are bought,
16 manufactured, prepared, or marketed in the
17 United States; or

18 “(C) any combination of subparagraphs
19 (A) and (B).

20 “(2) REQUIRED INFORMATION.—The Secretary
21 shall require each packer described in paragraph (1)
22 to report to the Secretary, in such manner as the
23 Secretary shall require, such information relating to
24 prices, volume, and terms of sale for the procure-
25 ment of domestic and imported livestock and live-

1 stock products as the Secretary determines is appro-
2 priate.

3 “(3) ADMINISTRATION.—In carrying out para-
4 graph (2), the Secretary shall require packers de-
5 scribed in paragraph (1)—

6 “(A) to separately report domestic and im-
7 ported livestock and livestock products; and

8 “(B) to report the information required
9 under paragraph (2) by the next business day,
10 as defined by the Secretary.

11 “(4) NONCOMPLIANCE.—It shall be unlawful
12 for any packer described in paragraph (1) to know-
13 ingly fail or refuse to provide to the Secretary infor-
14 mation required under paragraph (2).

15 “(5) VERIFICATION.—The Secretary may take
16 such actions as are necessary to verify the accuracy
17 of the information required under paragraph (2), re-
18 gardless of the source of the information.

19 “(6) CEASE AND DESIST AND CIVIL PEN-
20 ALTY.—

21 “(A) IN GENERAL.—If the Secretary has
22 reason to believe that a packer described in
23 paragraph (1) is violating this subsection (or a
24 regulation issued under this subsection), the
25 Secretary may issue an order to cease and de-

1 sist from continuing the violation and assess a
2 civil penalty of not more than \$10,000 for each
3 violation. The order shall be issued only after
4 notice and an opportunity for hearing is pro-
5 vided to the packer.

6 “(B) FACTORS.—In determining the
7 amount of a civil penalty to be assessed under
8 subparagraph (A), the Secretary shall consider
9 the gravity of the offense, the size of the busi-
10 ness involved, and the effect of the penalty on
11 the ability of the packer to continue in business.

12 “(7) REFERRAL TO ATTORNEY GENERAL.—If,
13 after expiration of the period for appeal or after the
14 affirmance of a civil penalty assessed under para-
15 graph (6), the packer against whom the civil penalty
16 is assessed fails to pay the civil penalty, the Sec-
17 retary may refer the matter to the Attorney General,
18 who may recover the amount of the civil penalty in
19 a civil action in United States district court.

20 “(c) VOLUNTARY REPORTING.—The Secretary shall
21 encourage voluntary reporting by packers that are not
22 subjected to a mandatory reporting requirement under
23 subsection (b).

24 “(d) AVAILABILITY OF INFORMATION.—

1 “(1) TIMELY AVAILABILITY.—The Secretary
2 shall make information received under this section
3 available to the public in a timely manner to permit
4 the use of the information while it is still relevant.

5 “(2) LIMITATIONS.—The disclosure of informa-
6 tion under paragraph (1) may be made only in a
7 form that ensures the following:

8 “(A) The identity of the parties involved in
9 any transaction described in a report is not dis-
10 closed.

11 “(B) The identity of the packer submitting
12 a report is not disclosed.

13 “(C) The confidentiality of proprietary
14 business information is otherwise protected.

15 “(e) EFFECT ON OTHER LAWS.—Nothing in this sec-
16 tion restricts or modifies the authority of the Secretary
17 to collect voluntary reports in accordance with other provi-
18 sions of law.

19 “(f) TERMINATION OF MANDATORY REQUIRE-
20 MENT.—The reporting requirement established by sub-
21 section (b) shall expire at the end of the three-year period
22 beginning on the date of the enactment of this section.”.

23 (b) REPEAL OF PILOT PRICE REPORTING INVESTIGA-
24 TION.—Section 416 of the Packers and Stockyards Act,
25 1921 (7 U.S.C. 229a), as added by section 1127(a) of the

1 Agriculture, Rural Development, Food and Drug Adminis-
2 tration, and Related Agencies Appropriations Act, 1999
3 (as contained in section 101(a) of division A of Public Law
4 105–277), is repealed.

5 **SEC. 9. REGULATIONS.**

6 (a) ISSUANCE OF REGULATIONS.—As soon as prac-
7 ticable after the date of enactment of this Act, the Sec-
8 retary and the Commodity Credit Corporation, as appro-
9 priate, shall issue such regulations as are necessary and
10 appropriate to its implementation. The Secretary’s regula-
11 tions shall address, among other matters, any misrepre-
12 sentations, schemes, or devices used by applicants in sub-
13 mitting claims for benefits, appeals applicable with respect
14 to those applicants dissatisfied with determination of bene-
15 fits, and provisions relating to entitlement to benefits by
16 estates, trusts, and minors. The issuance of the regula-
17 tions shall be made without regard to—

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

20 (2) the Statement of Policy of the Secretary of
21 Agriculture effective July 24, 1971 (36 Fed. Reg.
22 13804), relating to notices of proposed rulemaking
23 and public participation in rulemaking; and

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

4 (b) CONGRESSIONAL REVIEW OF AGENCY RULE-
5 MAKING.—In carrying out this Act, the Secretary shall use
6 the authority provided under section 808(2) of title 5,
7 United States Code.

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