

108TH CONGRESS  
2D SESSION

# H. R. 5226

To respond to recent natural disasters adversely affecting agricultural producers.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 2004

Mr. NEUGEBAUER (for himself, Mr. BURNS, Mrs. MUSGRAVE, Mr. ROGERS of Alabama, Mr. MORAN of Kansas, Mr. GOODLATTE, Mr. OSBORNE, Mr. REHBERG, Mr. THORNBERRY, Mr. LUCAS of Oklahoma, Mr. BOEHNER, Mr. TERRY, Mr. EVERETT, Mr. SIMPSON, and Mr. ALEXANDER) introduced the following bill; which was referred to the Committee on Agriculture

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## A BILL

To respond to recent natural disasters adversely affecting agricultural producers.

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. CROP DISASTER ASSISTANCE.**

4       (a) DEFINITIONS.—In this section:

5           (1) ADDITIONAL COVERAGE.—The term “addi-  
6       tional coverage” has the meaning given the term in  
7       section 502(b) of the Federal Crop Insurance Act (7  
8       U.S.C. 1502(b)).

1           (2) INSURABLE COMMODITY.—The term “insur-  
2       able commodity” means an agricultural commodity  
3       (excluding livestock) for which the producers on a  
4       farm are eligible to obtain a policy or plan of insur-  
5       ance under the Federal Crop Insurance Act (7  
6       U.S.C. 1501 et seq.).

7           (3) NONINSURABLE COMMODITY.—The term  
8       “noninsurable commodity” means an agricultural  
9       commodity for which the producers on a farm are el-  
10      igible to obtain assistance under section 196 of the  
11      Federal Agriculture Improvement and Reform Act of  
12      1996 (7 U.S.C. 7333).

13       (b) EMERGENCY FINANCIAL ASSISTANCE.—Notwith-  
14      standing section 508(b)(7) of the Federal Crop Insurance  
15      Act (7 U.S.C. 1508(b)(7)), the Secretary of Agriculture  
16      shall use such sums as are necessary of funds of the Com-  
17      modity Credit Corporation to make emergency financial  
18      assistance authorized under this section available to pro-  
19      ducers on a farm that have incurred qualifying crop or  
20      quality losses for the 2003 or 2004 crop (as elected by  
21      a producer), but not both crops, due to damaging weather  
22      or related condition, as determined by the Secretary.

23       (c) ADMINISTRATION.—The Secretary shall make as-  
24      sistance available under this section in the same manner  
25      as provided under section 815 of the Agriculture, Rural

1 Development, Food and Drug Administration, and Re-  
2 lated Agencies Appropriations Act, 2001 (Public Law  
3 106–387; 114 Stat. 1549A–55), including using the same  
4 loss thresholds for the quantity and quality losses as were  
5 used in administering that section.

6 (d) INELIGIBILITY FOR ASSISTANCE.—Except as pro-  
7 vided in subsection (e), the producers on a farm shall not  
8 be eligible for assistance under this section with respect  
9 to losses to an insurable commodity or noninsurable com-  
10 modity if the producers on the farm—

11 (1) in the case of an insurable commodity, did  
12 not obtain a policy or plan of insurance for the in-  
13 surable commodity under the Federal Crop Insur-  
14 ance Act (7 U.S.C. 1501 et seq.) for the crop incur-  
15 ring the losses; and

16 (2) in the case of a noninsurable commodity,  
17 did not file the required paperwork, and pay the ad-  
18 ministrative fee by the applicable State filing dead-  
19 line, for the noninsurable commodity under section  
20 196 of the Federal Agriculture Improvement and  
21 Reform Act of 1996 (7 U.S.C. 7333) for the crop  
22 incurring the losses.

23 (e) CONTRACT WAIVER.—The Secretary may waive  
24 subsection (d) with respect to the producers on a farm

1 if the producers enter into a contract with the Secretary  
2 under which the producers agree—

3           (1) in the case of an insurable commodity, to  
4           obtain a policy or plan of insurance under the Fed-  
5           eral Crop Insurance Act (7 U.S.C. 1501 et seq.)  
6           providing additional coverage for the insurable com-  
7           modity for each of the next 2 crops; and

8           (2) in the case of a noninsurable commodity, to  
9           file the required paperwork and pay the administra-  
10          tive fee by the applicable State filing deadline, for  
11          the noninsurable commodity for each of the next 2  
12          crops under section 196 of the Federal Agriculture  
13          Improvement and Reform Act of 1996 (7 U.S.C.  
14          7333).

15          (f) EFFECT OF VIOLATION.—In the event of the vio-  
16          lation of a contract under subsection (e) by a producer,  
17          the producer shall reimburse the Secretary for the full  
18          amount of the assistance provided to the producer under  
19          this section.

20          (g) PAYMENT LIMITATIONS.—

21                (1) LIMIT ON AMOUNT OF ASSISTANCE.—As-  
22                sistance provided under this section to a producer  
23                for losses to a crop, together with the amounts speci-  
24                fied in paragraph (2) applicable to the same crop,  
25                may not exceed 95 percent of what the value of the

1 crop would have been in the absence of the losses,  
2 as estimated by the Secretary.

3 (2) OTHER PAYMENTS.—In applying the limita-  
4 tion in paragraph (1), the Secretary shall include the  
5 following:

6 (A) Any crop insurance payment made  
7 under the Federal Crop Insurance Act (7  
8 U.S.C. 1501 et seq.) or payment under section  
9 196 of the Federal Agricultural Improvement  
10 and Reform Act of 1996 (7 U.S.C. 7333) that  
11 the producer receives for losses to the same  
12 crop.

13 (B) The value of the crop that was not lost  
14 (if any), as estimated by the Secretary.

15 (3) EFFECT OF FLORIDA DISASTER PRO-  
16 GRAMS.—The amount of assistance that a producer  
17 would otherwise receive under this section shall be  
18 reduced by the amount of assistance that the pro-  
19 ducer receives for the same loss under the Florida  
20 Disaster Programs carried out pursuant to the  
21 Farm Service Agency notice (DAP-203) released  
22 October 4, 2004.

23 **SEC. 2. LIVESTOCK ASSISTANCE PROGRAM.**

24 (a) EMERGENCY FINANCIAL ASSISTANCE.—The Sec-  
25 retary of Agriculture shall use such sums as are necessary

1 of funds of the Commodity Credit Corporation to make  
2 and administer payments for livestock losses to producers  
3 for 2003 or 2004 losses (as elected by a producer), but  
4 not both, in a county that has received an emergency des-  
5 ignation by the President or the Secretary after January  
6 1, 2003, of which an amount determined by the Secretary  
7 shall be made available for the American Indian livestock  
8 program under section 806 of the Agriculture, Rural De-  
9 velopment, Food and Drug Administration, and Related  
10 Agencies Appropriations Act, 2001 (Public Law 106–387;  
11 114 Stat. 1549A–51).

12 (b) ADMINISTRATION.—The Secretary shall make as-  
13 sistance available under this section in the same manner  
14 as provided under section 806 of the Agriculture, Rural  
15 Development, Food and Drug Administration, and Re-  
16 lated Agencies Appropriations Act, 2001 (Public Law  
17 106–387; 114 Stat. 1549A–51).

18 (c) MITIGATION.—In determining the eligibility for or  
19 amount of payments for which a producer is eligible under  
20 the livestock assistance program, the Secretary shall not  
21 penalize a producer that takes actions (recognizing dis-  
22 aster conditions) that reduce the average number of live-  
23 stock the producer owned for grazing during the produc-  
24 tion year for which assistance is being provided.

1 **SEC. 3. TREE ASSISTANCE PROGRAM.**

2 (a) EMERGENCY ASSISTANCE.—The Secretary of Ag-  
3 riculture shall use such sums as are necessary of the funds  
4 of the Commodity Credit Corporation to provide assist-  
5 ance under the tree assistance program established under  
6 sections 10201 through 10204 of the Farm Security and  
7 Rural Investment Act of 2002 (7 U.S.C. 8201 et seq.)  
8 to producers who suffered tree losses during the period  
9 beginning on December 1, 2003, and ending on December  
10 31, 2004.

11 (b) ADDITIONAL ASSISTANCE.—In addition to pro-  
12 viding assistance to eligible orchardists under the tree as-  
13 sistance program, the Secretary shall use an additional  
14 \$15,000,000 of the funds of the Commodity Credit Cor-  
15 poration to provide reimbursement under section 10203  
16 of the Farm Security and Rural Investment Act of 2002  
17 (7 U.S.C. 8203) to eligible forest land owners who produce  
18 periodic crops of timber from trees for commercial pur-  
19 poses and who have suffered tree losses during the period  
20 specified in subsection (a).

21 **SEC. 4. EMERGENCY CONSERVATION PROGRAM.**

22 The Secretary of Agriculture shall use an additional  
23 \$50,000,000 of the funds of the Commodity Credit Cor-  
24 poration to provide assistance under the Emergency Con-  
25 servation Program under title IV of the Agriculture Credit  
26 Act of 1978 (16 U.S.C. 2201 et seq.). Participants in the

1 Emergency Conservation Program shall receive the max-  
2 imum cost share percentage allowed under section 701.26  
3 of title 7, Code of Federal Regulations.

4 **SEC. 5. COMMODITY CREDIT CORPORATION.**

5 The Secretary of Agriculture shall use the funds, fa-  
6 cilities, and authorities of the Commodity Credit Corpora-  
7 tion to carry out this Act.

8 **SEC. 6. REGULATIONS.**

9 (a) IN GENERAL.—The Secretary of Agriculture may  
10 promulgate such regulations as are necessary to imple-  
11 ment this Act.

12 (b) PROCEDURE.—The promulgation of the regula-  
13 tions and administration of this Act shall be made without  
14 regard to—

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

17 (2) the Statement of Policy of the Secretary of  
18 Agriculture effective July 24, 1971 (36 Fed. Reg.  
19 13804), relating to notices of proposed rulemaking  
20 and public participation in rulemaking; and

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

24 (c) CONGRESSIONAL REVIEW OF AGENCY RULE-  
25 MAKING.—In carrying out this section, the Secretary shall



1 use the authority provided under section 808 of title 5,  
2 United States Code.

3 **SEC. 7. OFFSET.**

4       Section 1241(a)(3) of the Food Security Act of 1985  
5 (16 U.S.C. 3841(a)(3)) is amended by inserting before the  
6 period at the end the following: “, using not more than  
7 \$6,037,000,000 for the period of fiscal years 2005  
8 through 2014”.

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