

111TH CONGRESS  
1ST SESSION

# H. R. 4177

To provide emergency disaster assistance to certain agricultural producers that suffered losses during 2009, to provide emergency disaster assistance to certain livestock producers that suffered losses during 2008 or 2009, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 2, 2009

Mr. BERRY (for himself and Mr. CHILDERS) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Appropriations, 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 provide emergency disaster assistance to certain agricultural producers that suffered losses during 2009, to provide emergency disaster assistance to certain livestock producers that suffered losses during 2008 or 2009, 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 “Agricultural Disaster Assistance Act of 2009”.

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

Sec. 1. Short title; table of contents.  
 Sec. 2. Definitions.  
 Sec. 3. Supplemental direct payment.  
 Sec. 4. Specialty crop assistance.  
 Sec. 5. Cottonseed assistance.  
 Sec. 6. Livestock assistance.  
 Sec. 7. Relation to other laws.  
 Sec. 8. Regulations.  
 Sec. 9. Funding source.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) DISASTER COUNTY.—

6 (A) IN GENERAL.—The term “disaster  
 7 county” means a county included in the geo-  
 8 graphic area covered by a qualifying natural  
 9 disaster declaration for calendar year 2009, ex-  
 10 cept that, in the case of livestock assistance au-  
 11 thorized under section 6, the term includes a  
 12 county included in the geographic area covered  
 13 by qualifying natural disaster declaration for  
 14 calendar year 2008 or 2009.

15 (B) EXCLUSION.—The term “disaster  
 16 county” does not include a contiguous county.

17 (2) ELIGIBLE PRODUCER.—The term “eligible  
 18 producer” means an agricultural producer in a dis-  
 19 aster county.

20 (3) ELIGIBLE SPECIALTY CROP PRODUCER.—  
 21 The term “eligible specialty crop producer” means

1 an agricultural producer that, during the 2009 cal-  
 2 endar year, as determined by the Secretary—

3 (A) produced, or were prevented from  
 4 planting, a specialty crop in 1 or more disaster  
 5 counties; and

6 (B) experienced crop losses associated with  
 7 drought or excessive rainfall.

8 (4) QUALIFYING NATURAL DISASTER DECLARA-  
 9 TION.—The term “qualifying natural disaster dec-  
 10 laration” means a natural disaster declared by the  
 11 Secretary for production losses under section 321(a)  
 12 of the Consolidated Farm and Rural Development  
 13 Act (7 U.S.C. 1961(a)).

14 (5) SECRETARY.—The term “Secretary” means  
 15 the Secretary of Agriculture.

16 (6) SPECIALTY CROP.—The term “specialty  
 17 crop” has the meaning given the term in section 3  
 18 of the Specialty Crops Competitiveness Act of 2004  
 19 (Public Law 108–465; 7 U.S.C. 1621 note).

20 **SEC. 3. SUPPLEMENTAL DIRECT PAYMENT.**

21 Of the funds of the Commodity Credit Corporation,  
 22 the Secretary shall use such sums as are necessary to  
 23 make a supplemental payment under section 1103 of the  
 24 Food, Conservation, and Energy Act of 2008 (7 U.S.C.

1 8713) to eligible producers that previously received a pay-  
2 ment under that section.

3 **SEC. 4. SPECIALTY CROP ASSISTANCE.**

4 (a) IN GENERAL.—Of the funds of the Commodity  
5 Credit Corporation, the Secretary shall use not more than  
6 \$650,000,000, to remain available until September 30,  
7 2011, to carry out a program of grants to States to assist  
8 eligible specialty crop producers for losses associated with  
9 drought or excessive rainfall during the 2009 calendar  
10 year.

11 (b) NOTIFICATION.—Not later than 60 days after the  
12 date of enactment of this Act, the Secretary shall notify  
13 the State department of agriculture (or similar entity) in  
14 each State of the availability of funds to assist eligible spe-  
15 cialty crop producers, including such terms as are deter-  
16 mined by the Secretary to be necessary for the equitable  
17 treatment of eligible specialty crop producers.

18 (c) PROVISION OF GRANTS.—

19 (1) IN GENERAL.—The Secretary shall make  
20 grants to States under this section on a pro rata  
21 basis based on the value of specialty crop production  
22 during the 2008 calendar year, as determined by the  
23 Secretary.

24 (2) TIMING.—Not later than 120 days after the  
25 date of enactment of this Act, the Secretary shall

1       make grants to States to provide assistance under  
2       this section.

3           (3) MAXIMUM GRANT.—The maximum amount  
4       of a grant made to a State under this section may  
5       not exceed \$40,000,000.

6       (d) REQUIREMENTS.—The Secretary shall make  
7       grants under this section only to States that demonstrate  
8       to the satisfaction of the Secretary that the State will—

9           (1) use grant funds to assist eligible specialty  
10      crop producers;

11          (2) provide assistance to eligible specialty crop  
12      producers not later than 60 days after the date on  
13      which the State receives grant funds; and

14          (3) not later than 30 days after the date on  
15      which the State provides assistance to eligible spe-  
16      cialty crop producers, submit to the Secretary a re-  
17      port that describes—

18           (A) the manner in which the State pro-  
19      vided assistance;

20           (B) the amounts of assistance provided by  
21      type of specialty crop; and

22           (C) the process by which the State deter-  
23      mined the levels of assistance to eligible spe-  
24      cialty crop producers.

1 **SEC. 5. COTTONSEED ASSISTANCE.**

2 (a) IN GENERAL.—Of the funds of the Commodity  
3 Credit Corporation, the Secretary shall use not more than  
4 \$42,000,000 to provide supplemental assistance to eligible  
5 producers and first-handlers of the 2009 crop of cotton-  
6 seed in disaster counties.

7 (b) GENERAL TERMS.—Except as otherwise provided  
8 in this section, the Secretary shall provide disaster assist-  
9 ance under this section under the same terms and condi-  
10 tions as assistance provided under section 3015 of the  
11 Emergency Agricultural Disaster Assistance Act of 2006  
12 (title III of Public Law 109–234; 120 Stat. 477).

13 (c) DISTRIBUTION OF ASSISTANCE.—The Secretary  
14 shall distribute assistance to first handlers for the benefit  
15 of eligible producers in a disaster county in an amount  
16 equal to the product obtained by multiplying—

17 (1) the payment rate, as determined under sub-  
18 section (d); and

19 (2) the county-eligible production, as deter-  
20 mined under subsection (e).

21 (d) PAYMENT RATE.—The payment rate shall be  
22 equal to the quotient obtained by dividing—

23 (1) the sum of the county-eligible production, as  
24 determined under subsection (e); by

25 (2) the total funds made available to carry out  
26 this section.

1 (e) COUNTY-ELIGIBLE PRODUCTION.—The county-  
2 eligible production shall be equal to the product obtained  
3 by multiplying—

4 (1) the number of acres planted to cotton in the  
5 disaster county, as reported to the Secretary by  
6 first-handlers;

7 (2) the expected cotton lint yield for the dis-  
8 aster county, as determined by the Secretary based  
9 on the best available information; and

10 (3) the national average seed-to-lint ratio, as  
11 determined by the Secretary based on the best avail-  
12 able information for the 5 crop years immediately  
13 preceding the 2009 crop, excluding the year in which  
14 the average ratio was the highest and the year in  
15 which the average ratio was the lowest in such pe-  
16 riod.

17 **SEC. 6. LIVESTOCK ASSISTANCE.**

18 (a) LIVESTOCK COMPENSATION PROGRAM.—

19 (1) IN GENERAL.—Subject to subsection (c),  
20 the Secretary shall continue to carry out the 2002  
21 Livestock Compensation Program announced by the  
22 Secretary on October 10, 2002 (67 Fed. Reg.  
23 63070) (referred to in this subsection as the “Pro-  
24 gram”).

1           (2) ASSISTANCE.—In carrying out the Pro-  
2       gram, the Secretary shall provide assistance to any  
3       applicant that—

4           (A) conducts a livestock operation that is  
5       physically located in a disaster county and  
6       meets all other eligibility requirements estab-  
7       lished by the Secretary for the Program; or

8           (B) produces an animal described in sec-  
9       tion 10806(a)(1) of the Farm Security and  
10      Rural Investment Act of 2002 (21 U.S.C.  
11      321d(a)(1)) and meets all other eligibility re-  
12      quirements established by the Secretary for the  
13      Program.

14      (b) LIVESTOCK LOSS ASSISTANCE PROGRAM.—Sub-  
15      ject to subsection (c), the Secretary shall carry out a pro-  
16      gram to make payments to eligible producers for livestock  
17      losses occurring in a disaster county under the same cri-  
18      teria established to carry out the 1999 Livestock Assist-  
19      ance Program.

20      (c) RELATIONSHIP OF LIVESTOCK ASSISTANCE PRO-  
21      GRAMS.—The amount of assistance that the eligible pro-  
22      ducers on a farm would otherwise receive under subsection  
23      (a) or (b) for a loss, except for the operation of this sub-  
24      section, shall be reduced by the amount of the assistance



1 that the eligible producers on the farm receive under any  
2 other livestock assistance program.

3 (d) USE OF COMMODITY CREDIT CORPORATION  
4 FUNDS.—The Secretary shall use \$150,000,000 of the  
5 funds of the Commodity Credit Corporation to carry out  
6 the livestock assistance programs under this section.

7 **SEC. 7. RELATION TO OTHER LAWS.**

8 An eligible producer or eligible specialty crop pro-  
9 ducer that receives assistance under this Act shall be ineli-  
10 gible to receive assistance for the 2009 crop year under  
11 the program carried out under section 531 of the Federal  
12 Crop Insurance Act (7 U.S.C. 1531) and section 901 of  
13 the Trade Act of 1974 (19 U.S.C. 2497).

14 **SEC. 8. REGULATIONS.**

15 (a) IN GENERAL.—As soon as practicable after the  
16 date of enactment of this Act, the Secretary shall promul-  
17 gate such regulations as are necessary to implement this  
18 Act.

19 (b) PROCEDURE.—The promulgation of the regula-  
20 tions and administration of this Act shall be made without  
21 regard to—

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

24 (2) the Statement of Policy of the Secretary of  
25 Agriculture effective July 24, 1971 (36 Fed. Reg.

1       13804), relating to notices of proposed rulemaking  
2       and public participation in rulemaking; and

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

6       (c) CONGRESSIONAL REVIEW OF AGENCY RULE-  
7       MAKING.—In carrying out this paragraph, the Secretary  
8       shall use the authority provided under section 808 of title  
9       5, United States Code.

10   **SEC. 9. FUNDING SOURCE.**

11       (a) OFFSET.—The Secretary of the Treasury shall  
12       rescind such funds as are necessary of funds made avail-  
13       able under the Troubled Asset Relief Program established  
14       under title I of division A of the Emergency Economic Sta-  
15       bilization Act of 2008 (Public Law 110–343; 12 U.S.C.  
16       5211 et seq.) to reimburse the Commodity Credit Corpora-  
17       tion for expenditures under this Act.

18       (b) ADMINISTRATIVE COSTS.—The Secretary may  
19       use up to \$5,000,000 of amounts made available under  
20       subsection (a) to pay administrative costs incurred by the  
21       Secretary that are directly related to carrying out this Act.

○