

Union Calendar No. 137

106TH CONGRESS
1ST SESSION

H. R. 1402

[Report No. 106-239]

To require the Secretary of Agriculture to implement the Class I milk price structure known as Option 1A as part of the implementation of the final rule to consolidate Federal milk marketing orders.

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 1999

Mr. BLUNT (for himself, Mr. SWEENEY, Mr. STENHOLM, Mr. MCHUGH, Mr. HOLDEN, Mr. ETHERIDGE, Mr. REYNOLDS, Mr. BALDACCI, Mrs. THURMAN, Mr. HUTCHINSON, Mrs. CLAYTON, Mr. HOUGHTON, Mr. SKEEN, Mr. BOEHLERT, Mr. WALSH, Mr. NORWOOD, Mr. ADERHOLT, Mr. CALLAHAN, Mr. CRAMER, Mr. HILLIARD, Mr. RILEY, Mr. DICKEY, Mr. PASTOR, Mr. FARR of California, Mr. LEWIS of California, Mr. HEFLEY, Ms. DELAURO, Mr. GEJDENSON, Mrs. JOHNSON of Connecticut, Mr. MALONEY of Connecticut, Mr. BOYD, Ms. BROWN of Florida, Mr. CANDY of Florida, Mr. DAVIS of Florida, Mr. DEUTSCH, Mr. FOLEY, Mrs. FOWLER, Mr. MCCOLLUM, Mr. MICA, Ms. ROS-LEHTINEN, Mr. STEARNS, Mr. BARR of Georgia, Mr. BISHOP, Mr. CHAMBLISS, Mr. COLLINS, Mr. DEAL of Georgia, Mr. KINGSTON, Mr. LEWIS of Georgia, Mr. LINDER, Mr. FLETCHER, Mr. LEWIS of Kentucky, Mr. WHITFIELD, Mr. BAKER, Mr. COOKSEY, Mr. JEFFERSON, Mr. JOHN, Mr. MCCRERY, Mr. CAPUANO, Mr. MCGOVERN, Mr. OLVER, Mr. BARTLETT of Maryland, Mr. GILCHREST, Mrs. MORELLA, Mr. ALLEN, Mr. BARCIA, Ms. DANNER, Mrs. EMERSON, Mr. HULSHOF, Mr. SKELTON, Mr. TALENT, Mr. PICKERING, Mr. SHOWS, Mr. TAYLOR of Mississippi, Mr. THOMPSON of Mississippi, Mr. BURR of North Carolina, Mr. COBLE, Mr. HAYES, Mr. MCINTYRE, Mrs. MYRICK, Mr. PRICE of North Carolina, Mr. TAYLOR of North Carolina, Mr. BASS, Mr. SUNUNU, Mr. ANDREWS, Mr. SAXTON, Mr. CROWLEY, Mr. FORBES, Mr. GILMAN, Mr. HINCHEY, Mrs. KELLY, Mr. LAFALCE, Mrs. LOWEY, Mrs. MCCARTHY of New York, Mr. RANGEL, Mr. TOWNS, Mr. NEY, Mr. STRICKLAND, Mr. WATKINS, Mr. DOYLE, Mr. GREENWOOD, Mr. KANJORSKI, Mr. KLINK, Mr. MASCARA, Mr. PETERSON of Pennsylvania, Mr. PITTS, Mr. SHUSTER, Mr. CLYBURN, Mr. BRYANT, Mr. HILLEARY, Mr. JENKINS, Mr. TANNER, Mr.

BONILLA, Mr. HALL of Texas, Mr. SANDLIN, Mr. THORNBERRY, Mr. HANSEN, Mr. GOODE, Mr. PICKETT, Mr. SCOTT, Mr. WOLF, Mr. SANDERS, Ms. DUNN, Mr. METCALF, Mr. NETHERCUTT, Mr. MOLLOHAN, Mr. RAHALL, and Mr. WISE) introduced the following bill; which was referred to the Committee on Agriculture

JULY 19, 1999

Additional sponsors: Mr. CASTLE, Mr. FOSSELLA, Mr. KING, Mr. McNULTY, Mr. NADLER, Mr. QUINN, Mr. LAMPSON, Mr. ENGLISH, Mr. FILNER, Ms. SLAUGHTER, Mr. SHERWOOD, Mr. LAZIO, Mr. BERRY, Mr. TAUZIN, Mr. BONIOR, Mr. WICKER, Mr. BALLENGER, Mr. JONES of North Carolina, Mr. BENTSEN, Mr. SISISKY, Mr. RODRIGUEZ, Mr. WYNN, Mr. McINNIS, Mr. ISAKSON, Mr. EVERETT, Mr. SHADEGG, Mr. TURNER, Ms. MCCARTHY of Missouri, Mr. EDWARDS, Mrs. MEEK of Florida, Mr. DIAZ-BALART, Mr. UDALL of New Mexico, Mr. LUCAS of Kentucky, Ms. STABENOW, Mr. CAMP, Mr. SNYDER, Mr. LAHOOD, Ms. MCKINNEY, Mr. HASTINGS of Florida, Mr. STUMP, Mr. LUCAS of Oklahoma, Mr. CONDIT, Mr. SMITH of Michigan, Mr. BILIRAKIS, Mr. MORAN of Kansas, Mr. WEXLER, Mr. WELDON of Florida, Mr. BURTON of Indiana, Mr. COOK, Mr. BACHUS, Mr. FROST, Mr. BOUCHER, Mr. WAMP, Mr. KILDEE, Mrs. NORTHUP, Mr. HAYWORTH, Mr. GONZALEZ, Mr. GORDON, Mr. GREEN of Texas, Mr. TRAFICANT, Mr. BRADY of Texas, Mr. CLAY, Mr. HILL of Montana, Mr. LARGENT, Mr. GOODLATTE, Mr. NEAL of Massachusetts, Mr. SMITH of Washington, Mr. SPENCE, Ms. HOOLEY of Oregon, Mr. SIMPSON, Mr. YOUNG of Alaska, Mr. LARSON, Mr. INSLEE, Mr. SPRATT, Mr. CANNON, Mr. GARY MILLER of California, Mr. HASTINGS of Washington, Mr. RADANOVICH, Ms. WOOLSEY, Mr. DELAY, Mr. RYUN of Kansas, Mr. PHELPS, Mr. REYES, Mr. HINOJOSA, Mr. LEVIN, Mr. BROWN of California, Mr. ROGERS, Ms. JACKSON-LEE of Texas, Mr. REGULA, Mr. MCKEON, Mr. UDALL of Colorado, Mr. GOODLING, Mr. DICKS, Mr. MARTINEZ, Mr. ABERCROMBIE, Mr. CUNNINGHAM, Mr. DUNCAN, Mr. KENNEDY of Rhode Island, Mr. GIBBONS, Mr. EHRlich, Mr. ORTIZ, and Mr. CUMMINGS

JULY 19, 1999

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 14, 1999]

A BILL

To require the Secretary of Agriculture to implement the Class I milk price structure known as Option 1A as

part of the implementation of the final rule to consolidate Federal milk marketing orders.

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. REQUIRED USE OF OPTION 1A AS PRICE STRUC-**
 4 **TURE FOR CLASS I MILK UNDER CONSOLI-**
 5 **DATED FEDERAL MILK MARKETING ORDERS.**

6 (a) *USE OF OPTION 1A.*—*In implementing the final*
 7 *decision for the consolidation and reform of Federal milk*
 8 *marketing orders, as required by section 143 of the Federal*
 9 *Agriculture Improvement and Reform Act of 1996 (7 U.S.C.*
 10 *7253), the Secretary of Agriculture shall price fluid or Class*
 11 *I milk under the orders using the Class I price differentials*
 12 *identified as Option 1A “Location-Specific Differentials*
 13 *Analysis” in the proposed rule published in the Federal*
 14 *Register on January 30, 1998 (63 Fed. Reg. 4802, 4809),*
 15 *except that the Secretary shall include the corrections and*
 16 *modifications to such Class I differentials made by the Sec-*
 17 *retary through April 2, 1999.*

18 (b) *EFFECT ON IMPLEMENTATION SCHEDULE.*—*The*
 19 *requirement to use Option 1A in subsection (a) does not*
 20 *modify or delay the time period for actual implementation*
 21 *of the final decision as part of Federal milk marketing or-*
 22 *ders specified in section 738 of the Agriculture, Rural De-*
 23 *velopment, Food and Drug Administration, and Related*
 24 *Agencies Appropriations Act, 1999 (as contained in section*

1 101(a) of division A of Public Law 105–277; 112 Stat.
2 2681–30).

3 **SEC. 2. NECESSITY OF USING FORMAL RULEMAKING TO DE-**
4 **VELOP PRICING METHODS FOR CLASS III AND**
5 **CLASS IV MILK; MODIFIED MANUFACTURING**
6 **ALLOWANCE FOR CHEESE.**

7 (a) *CONGRESSIONAL FINDING.*—*The Class III and*
8 *Class IV pricing formulas included in the final decision for*
9 *the consolidation and reform of Federal milk marketing or-*
10 *ders, as published in the Federal Register on April 2, 1999*
11 *(64 Fed. Reg. 16025), do not adequately reflect public com-*
12 *ment on the original proposed rule published in the Federal*
13 *Register on January 30, 1998 (63 Fed. Reg. 4802), and*
14 *are sufficiently different from the proposed rule and any*
15 *comments submitted with regard to the proposed rule that*
16 *further emergency rulemaking is merited.*

17 (b) *FORMAL RULEMAKING.*—

18 (1) *REQUIRED.*—*The Secretary of Agriculture*
19 *shall conduct rulemaking, on the record after an op-*
20 *portunity for an agency hearing, to reconsider the*
21 *Class III and Class IV pricing formulas included in*
22 *the final decision referred to in subsection (a).*

23 (2) *IMPLEMENTATION.*—*A final decision on the*
24 *formula shall be implemented not later than 10*
25 *months after the date of the enactment of this Act.*

1 (3) *EFFECT OF COURT ORDER.*—*The actions au-*
2 *thorized by this subsection are intended to ensure the*
3 *timely publication and implementation of new pric-*
4 *ing formulas for Class III and Class IV milk. In the*
5 *event that the Secretary is enjoined or otherwise re-*
6 *strained by a court order from implementing the final*
7 *decision under paragraph (2), the length of time for*
8 *which that injunction or other restraining order is ef-*
9 *fective shall be added to the time limitations specified*
10 *in paragraph (2) thereby extending those time limita-*
11 *tions by a period of time equal to the period of time*
12 *for which the injunction or other restraining order is*
13 *effective.*

14 (c) *FAILURE TO TIMELY COMPLETE RULEMAKING.*—
15 *If the Secretary of Agriculture fails to implement new Class*
16 *III and Class IV pricing formulas within the time period*
17 *required under subsection (b)(2) (plus any additional pe-*
18 *riod provided under subsection (b)(3)), the Secretary may*
19 *not assess or collect assessments from milk producers or*
20 *handlers under section 8c of the Agricultural Adjustment*
21 *Act (7 U.S.C. 608c), reenacted with amendments by the Ag-*
22 *ricultural Marketing Agreement Act of 1937, for marketing*
23 *order administration and services provided under such sec-*
24 *tion after the end of that period until the pricing formulas*
25 *are implemented. The Secretary may not reduce the level*

1 of services provided under that section on account of the
2 prohibition against assessments, but shall rather cover the
3 cost of marketing order administration and services through
4 funds available for the Agricultural Marketing Service of
5 the Department.

6 (d) *EFFECT ON IMPLEMENTATION SCHEDULE.*—Sub-
7 ject to subsection (e), the requirement for additional rule-
8 making in subsection (b) does not modify or delay the time
9 period for actual implementation of the final decision re-
10 ferred to in subsection (a) as part of Federal milk mar-
11 keting orders, as such time period is specified in section
12 738 of the Agriculture, Rural Development, Food and Drug
13 Administration, and Related Agencies Appropriations Act,
14 1999 (as contained in section 101(a) of division A of Public
15 Law 105–277; 112 Stat. 2681–30).

16 (e) *MODIFIED MANUFACTURING ALLOWANCE FOR*
17 *CHEESE.*—Pending the implementation of new pricing for-
18 mulas for Class III and Class IV milk as required by sub-
19 section (b), the Secretary of Agriculture shall modify the
20 formula used for determining Class III prices, as contained
21 in the final decision referred to in subsection (a), to replace
22 the manufacturing allowance of 17.02 cents per pound of
23 cheese each place it appears in that formula with an
24 amount equal to 14.7 cents per pound of cheese.

1 **SEC. 3. ONE-YEAR EXTENSION OF CURRENT MILK PRICE**
 2 **SUPPORT PROGRAM.**

3 (a) *EXTENSION OF PROGRAM.*—Subsection (h) of sec-
 4 tion 141 of the Agricultural Market Transition Act (7
 5 U.S.C. 7251) is amended by striking “1999” both places
 6 it appears and inserting “2000”.

7 (b) *CONTINUATION OF CURRENT PRICE SUPPORT*
 8 *RATE.*—Subsection (b)(4) of such section is amended by
 9 striking “year 1999” and inserting “years 1999 and 2000”.

10 (c) *DELAY IN RECOURSE LOAN PROGRAM FOR PROC-*
 11 *ESSORS.*—Section 142(e) of the Agricultural Market Tran-
 12 sition Act (7 U.S.C. 7252(e)) is amended by striking
 13 “2000” and inserting “2001”.

14 **SEC. 4. DAIRY FORWARD PRICING PROGRAM.**

15 *The Agricultural Adjustment Act (7 U.S.C. 601 et*
 16 *seq.), reenacted with amendments by the Agricultural Mar-*
 17 *keting Agreement Act of 1937, is amended by adding at*
 18 *the end the following new section:*

19 **“SEC. 23. DAIRY FORWARD PRICING PROGRAM.**

20 “(a) *IN GENERAL.*—Not later than 90 days after the
 21 date of enactment of this section, the Secretary of Agri-
 22 culture shall establish a program under which milk pro-
 23 ducers and cooperatives are authorized to voluntarily enter
 24 into forward price contracts with milk handlers.

25 “(b) *MINIMUM MILK PRICE REQUIREMENTS.*—Pay-
 26 ments made by milk handlers to milk producers and co-

1 *operatives, and prices received by milk producers and co-*
2 *operatives, under the forward contracts shall be deemed to*
3 *satisfy all regulated minimum milk price requirements of*
4 *paragraphs (A), (B), (C), (D), (F), and (J) of subsection*
5 *(5), and subsections (7)(B) and (18), of section 8c.*

6 “(c) *APPLICATION.—This section shall apply only with*
7 *respect to the marketing of federally regulated milk (regard-*
8 *less of its use) that is in the current of interstate or foreign*
9 *commerce or that directly burdens, obstructs, or affects*
10 *interstate or foreign commerce in federally regulated milk.”.*

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