

PROVIDING FOR THE CONSIDERATION OF H.R. 1402,  
CONSOLIDATION OF MILK MARKETING ORDERS

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SEPTEMBER 15, 1999.—Referred to the House Calendar and ordered to be printed

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Mr. REYNOLDS, from the Committee on Rules,  
submitted the following

REPORT

[To accompany H. Res. 294]

The Committee on Rules, having had under consideration House Resolution 294, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF RESOLUTION

The resolution provides for the consideration of H.R. 1402, the “Consolidation of Milk Marketing Orders,” under a structured rule. The rule provides one hour of general debate divided equally between the chairman and ranking minority member of the Committee on Agriculture.

The rule waives clause 3 of rule XIII (requiring the inclusion in the report of a CBO cost estimate and a statement on certain budget matters if the measure includes new budget or entitlement authority) and section 308(a) of the Congressional Budget Act (requiring a Congressional Budget Office cost estimate in the committee report on any legislation containing new budget authority) against consideration of the bill.

The rule makes in order the Committee on Agriculture amendment in the nature of a substitute as an original bill for purpose of amendment, modified by the amendments printed in part A of this report. The amendment in the nature of a substitute shall be considered as read.

The rule also waives clause 7 of rule XVI (prohibiting non-germane amendments) against the amendment in the nature of a substitute.

Only those amendments printed in part B of this report are made in order. The amendments made in order may be offered only in the order printed in the report, may be offered only by a Mem-

ber designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in this report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived.

The rule permits for the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce voting time to five minutes on a postponed question if the vote follows a fifteen minute vote. Finally, the rule provides for one motion to recommit, with or without instructions.

AMENDMENTS MADE IN ORDER UNDER THE RULE FOR H.R. 1402,  
CONSOLIDATION OF MILK MARKETING ORDERS

*Part A—Amendments modifying the amendment in the nature of a substitute*

Combest: The amendment contains 3 parts. Part 1 adds two new subsections to Section 1 of H.R. 1402. New subsection (c)(1) mandates that the Secretary should implement the amendments made in Section 1 of H.R. 1402 as soon as practicable. This section waives specific rulemaking and referendum requirements of the Agricultural Adjustment Act with regard to implementation of Section 1 of H.R. 1402. In addition, this amendment waives notice and comment requirements pursuant to Department policy and the Paperwork Reduction Act.

New subsection (c)(2) concerns provisions of the final rule which require USDA to publish a prospective pricing series regarding class I milk on the last Friday before the 23rd day of the previous month. Should an announcement be made by the USDA prior to enactment of this legislation, this amendment would allow the previously announced pricing series to remain in effect for the month in which it was intended, and any subsequent announcements would then be required to conform with Section 1 of the underlying Act.

Part 2 adds the same new paragraphs in part 1 to Section 2(c) of H.R. 1402 in order to waive rulemaking, referendum, and Paperwork Reduction Act requirements for the adjustments to the manufactured product formula pricing provisions. Part 3 (page 4, lines 6 through 8 of the amendment) repeals the Recourse Loan Program for Commercial Processors of Dairy Products by deleting section 142 of the Agricultural Market Transition Act due to budgetary constraints.

Mandates that the Secretary should implement the amendments in Section 1 of the bill which waives specific rulemaking and referendum requirements of the Agricultural Adjustment Act.

*Part B—Amendments made in order*

1. Green (WI)/Ryan (WI): Amends Section 1 to require that the USDA conduct a national referendum on Secretary Glickman's proposed milk marketing reforms. Option 1A and 1B would be the only choices on the ballot. This amendment would require the ref-

erendum to take place with a single national vote, excluding California. (20 minutes)

2. Stenholm/Pombo: Modifies the forward pricing provisions contained in the reported bill by sunseting the Forward Price Contracting Program as of December 31, 2004, and requiring a report to Congress regarding its operation, and by limiting the scope of the program to apply only to milk other than milk used for Class I (beverage) purposes. (40 minutes)

3. Dooley: Amends Stenholm/Pombo: Strikes the Class I limitation of the Forward Price Contracting Program. (10 minutes)

4. Gutknecht/Ryan (WI)/Green (WI): Eliminates a loophole in the law that allows cooperatives in non-competitive markets to pay producers mail box prices less than the federal milk marketing order blend minimum prices. (40 minutes)

5. Kind: Allows the pooling of Class 1 receipts. (20 minutes)

6. Ryan (WI)/Green (WI): Mandates that the Class I differential may not exceed \$2.27 in any order region in the country. (20 minutes)

7. Manzullo/Dooley: Outlines of the role of the U.S. Trade Representative in implementing provisions of the bill. Specifically, the USTR would ensure that the bill presents no risk of interference with our nation's international trade policy objectives and under that agreement, a determination must be made at least once a year by the USTR, and any negative assessment made by the USTR in regard to any international trade negotiations to which the U.S. is a party would nullify the provisions of the bill. (40 minutes)

8. Boehner/Obey: Terminates the Federal Milk Marketing Order system on January 1, 2001. (60 minutes)

## PART A

### TEXT OF AMENDMENTS MODIFYING THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Page 4, after line 2, insert the following new subsection:

(c) IMPLEMENTATION OF REQUIREMENT.—

(1) EXPEDITED IMPLEMENTATION.—The Secretary of Agriculture shall comply with subsection (a) as soon as practicable after the date of the enactment of this Act. The requirement to use the Option 1A described in such subsection shall not be subject to—

(A) the notice and hearing requirements of section 8c(3) of the Agricultural Adjustment Act (7 U.S.C. 608c(3)), re-enacted with amendments by the Agricultural Marketing Agreement Act of 1937, or the notice and comment provisions of section 553 of title 5, United States Code;

(B) a referendum conducted by the Secretary of Agriculture pursuant to subsections (17) or (19) of such section 8c;

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

(D) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(2) EFFECT ON MINIMUM MILK PRICES.—If the Secretary of Agriculture announces minimum prices for milk under Federal milk marketing orders pursuant to section 1000.50 of title 7, Code of Federal Regulations, before the date on which the Secretary first complies with subsection (a), the minimum prices so announced before that date shall be the only applicable minimum prices under Federal milk marketing orders for the months for which the prices have been announced.

Page 6, line 17, insert before “Pending” the following:

(1) MODIFICATION OF ALLOWANCE.—

Page 6, after line 24, insert the following new paragraphs:

(2) EXPEDITED IMPLEMENTATION.—The Secretary of Agriculture shall implement the modified formula as soon as practicable after the date of the enactment of this Act. Implementation and use of the modified formula shall not be subject to—

(A) the notice and hearing requirements of section 8c(3) of the Agricultural Adjustment Act (7 U.S.C. 608c(3)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, or the notice and comment provisions of section 553 of title 5, United States Code;

(B) a referendum conducted by the Secretary of Agriculture pursuant to subsections (17) or (19) of such section 8c;

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

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

(3) EFFECT ON MINIMUM MILK PRICES.—If the Secretary of Agriculture announces minimum prices for milk under Federal milk marketing orders pursuant to section 1000.50 of title 7, Code of Federal Regulations, before the date on which the Secretary first implements the modified formula, the minimum prices so announced before that date shall be the only applicable minimum prices under Federal milk marketing orders for the months for which the prices have been announced.

Page 7, strike lines 10 through 13, and insert the following:

(c) ELIMINATION OF RECOURSE LOAN PROGRAM FOR PROCESSORS.—Section 142 of the Agricultural Market Transition Act (7 U.S.C. 7252) is repealed.

## PART B

AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GREEN OF WISCONSIN, OR REPRESENTATIVE RYAN OF WISCONSIN, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 3, beginning line 3, strike section 1 and insert the following new section:

### SECTION 1. REQUIREMENTS APPLICABLE TO REFERENDA REGARDING FEDERAL MILK MARKETING ORDERS.

(a) NATIONAL BASIS OF REFERENDUM.—Section 8c(19) of the Agricultural Adjustment Act (7 U.S.C. 608c(19)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is

amended by adding at the end the following new sentence: "In the case of the issuance or amendment of an order relating to milk or its products, the referendum required by this subsection shall be conducted on a nationwide basis among all milk producers operating in areas covered by Federal milk marketing orders and the results of the referendum shall be tallied on a nationwide basis."

(b) **TERMINATION OF BLOC VOTING.**—Section 8c(12) of the Agricultural Adjustment Act (7 U.S.C. 608c(12)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following new sentence: "In the case of a referendum relating to milk or its products, a cooperative association of producers may not vote in the referendum on behalf of milk producers who are members of, stockholders in, or under contract with, such cooperative association of producers."

(c) **APPLICATION OF AMENDMENTS.**—The amendments made by subsections (a) and (b) shall apply with respect to the referendum required by subsection (d) and any other referendum relating to milk or its products commenced under section 8c(19) of the Agricultural Adjustment Act (7 U.S.C. 608c(19)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, on or after the date of the enactment of this Act.

(d) **REFERENDUM ON USE OF OPTION 1A OR OPTION 1B.**—

(1) **REFERENDUM REQUIRED.**—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture shall conduct a referendum among dairy producers whose operations are located within areas covered by Federal milk marketing orders to determine whether producers would prefer that the Secretary price fluid or Class I milk under the orders using the Class I price differentials identified as Option 1A or Option 1B in the proposed rule published in the Federal Register on January 30, 1998 (63 Fed. Reg. 4802, 4809), including such corrections and modifications to such options made by the Secretary through April 2, 1999.

(2) **IMPLEMENTATION OF RESULTS.**—The Secretary shall implement the favored option in the referendum as part of each Federal milk marketing order (other than any order covering the State of California).

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE STENHOLM OF TEXAS, OR REPRESENTATIVE POMBO OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 40 MINUTES

Page 7, strike line 19 and all that follows through line 10 on page 8, and insert the following:

**"SEC. 23. DAIRY FORWARD PRICING PILOT PROGRAM.**

"(a) **PILOT PROGRAM REQUIRED.**—Not later than 90 days after the date of enactment of this section, the Secretary of Agriculture shall establish a temporary pilot program under which milk producers and cooperatives are authorized to voluntarily enter into forward price contracts with milk handlers.

"(b) **MINIMUM MILK PRICE REQUIREMENTS.**—Payments made by milk handlers to milk producers and cooperatives, and prices re-

ceived by milk producers and cooperatives, under the forward contracts shall be deemed to satisfy—

“(1) all regulated minimum milk price requirements of paragraphs (B) and (F) of subsection (5) of section 8c; and

“(2) the requirement of paragraph (C) of such subsection regarding total payments by each handler.

“(c) MILK COVERED BY PILOT PROGRAM.—The pilot program shall apply only with respect to the marketing of federally regulated milk that—

“(1) is not classified as Class I milk or otherwise intended for fluid use; and

“(2) is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk.

“(d) DURATION.—The authority of the Secretary of Agriculture to carry out the pilot program shall terminate on December 31, 2004. No forward price contract entered into under the program may extend beyond that date.

“(e) STUDY AND REPORT ON EFFECT OF PILOT PROGRAM.—

“(1) STUDY.—The Secretary of Agriculture shall conduct a study on forward contracting between milk producers and cooperatives and milk handlers to determine the impact on milk prices paid to producers in the United States. To obtain information for the study, the Secretary may use the authorities available to the Secretary under section 8d, subject to the confidentiality requirements of subsection (2) of such section.

“(2) REPORT.—Not later than April 30, 2002, the Secretary shall submit to the Committee on Agriculture, Nutrition and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report containing the results of the study.”.

3. AN AMENDMENT TO THE STENHOLM OF TEXAS AMENDMENT TO BE OFFERED BY REPRESENTATIVE DOOLEY OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

On page 2 of the amendment, beginning line 3, strike “that—” and all that follows through “is in” on line 6 and insert “that is in”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GUTKNECHT OF MINNESOTA, OR REPRESENTATIVE RYAN OF WISCONSIN, OR A DESIGNEE, DEBATABLE FOR 40 MINUTES

Add at the end the following new section:

**SEC. \_\_\_\_ . LIMITATION ON BLENDING OF PROCEEDS FROM THE COLLECTIVE SALES OR MARKETING OF MILK AND MILK PRODUCTS.**

Notwithstanding section 8c(5)(F) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(F)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, or the consolidation of Federal milk marketing orders pursuant to section 143 of the Federal Agricultural Improvement and Reform Act of 1996 (7 U.S.C. 7253), effective beginning on the date of the enactment of this Act, the Secretary of Agriculture shall prohibit a cooperative marketing

association referred to in such section 8c(5)(F) from blending the net proceeds attributable to Federal minimum prices of all sales or marketings of milk and its products in all markets in all use classifications in order to make distributions in accordance with the contract between the association and its producers. The prohibition does not prohibit the blending of market-based premiums.

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5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KIND OF WISCONSIN, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Add at the end the following new section:

**SEC. \_\_\_\_ . NATIONAL POOLING OF CLASS I RECEIPTS UNDER FEDERAL MILK MARKETING ORDERS.**

Notwithstanding the terms of Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture shall provide for the national pooling of receipts from fluid or Class I milk.

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6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE RYAN OF WISCONSIN, OR REPRESENTATIVE GREEN OF WISCONSIN, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Add at the end the following new section:

**SEC. \_\_\_\_ . MAXIMUM CLASS I MILK PRICE DIFFERENTIAL.**

Notwithstanding the consolidation and reform of Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, effective October 1, 1999, the Class I milk price differential for all Federal milk marketing orders may not exceed \$2.27 per hundredweight.

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7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MANZULLO OF ILLINOIS, OR REPRESENTATIVE DOOLEY OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 40 MINUTES

Add at the end the following new section:

**SEC. \_\_\_\_ . CONDITIONAL IMPLEMENTATION OF ACT.**

(a) EFFECTIVE DATE; ROLE OF UNITED STATES TRADE REPRESENTATIVE.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act, except that the Secretary of Agriculture may not carry out this Act or implement any amendment made by this Act unless and until the United States Trade Representative notifies the Secretary that this Act and the amendments made by this Act present no risk of interference with any international trade negotiation to which the United States is currently a party or with the achievement of the trade policy objectives of the United States.

(b) CONTINUING ASSESSMENT OF EFFECT ON TRADE.—If this Act and the amendments made by this Act are implemented as provided in subsection (a), the United States Trade Representative

shall periodically assess the effect of the implementation of this Act and the amendments made by this Act on international trade negotiations to which the United States is a party and the trade policy objectives of the United States.

(c) **TERMINATION.**—If, as a result of an assessment under subsection (b), the United States Trade Representative determines that this Act or any amendment made by this Act presents a risk of interference with any international trade negotiation to which the United States is a party or with the achievement of the trade policy objectives of the United States, the United States Trade Representative shall notify the Secretary of Agriculture of the determination. Upon receipt of the notification, the Secretary shall cease to carry out this Act and amendments made by this Act.

**8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BOEHNER OF OHIO, OR REPRESENTATIVE OBEY OF WISCONSIN, OR A DESIGNEE, DEBATABLE FOR 60 MINUTES**

Strike sections 1 and 2 and insert the following new section:

**SECTION 1. TERMINATION OF MILK MARKETING ORDERS ON JANUARY 1, 2001.**

(a) **TERMINATION.**—Effective January 1, 2001, section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking paragraphs (5) and (18) relating to milk and its products. On that date, the Secretary of Agriculture shall terminate all existing Federal milk marketing orders issued under such section.

(b) **PROHIBITION ON SUBSEQUENT ORDERS REGARDING MILK.**—Section 8c(2) of the Agricultural Adjustment Act (7 U.S.C. 608c(2)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by striking “Milk, fruits” and inserting “Fruits”; and

(2) by inserting “milk,” after “honey,” in subparagraph (B).

(c) **CONFORMING AMENDMENTS.**—(1) Section 2(3) of the Agricultural Adjustment Act (7 U.S.C. 602(3)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking “, other than milk and its products,”.

(2) Section 8c of such Act (7 U.S.C. 608c) is amended—

(A) in paragraph (6), by striking “, other than milk and its products,”;

(B) in paragraph (7)(B), by striking “(except for milk and cream to be sold for consumption in fluid form)”;

(C) in paragraph (11)(B), by striking “Except in the case of milk and its products, orders” and inserting “Orders”;

(D) in paragraph (13)(A), by striking “, except to a retailer in his capacity as a retailer of milk and its products”; and

(E) in paragraph (17), by striking the second proviso, which relates to milk orders.

(3) Section 8d(2) of such Act (7 U.S.C. 608d(2)) is amended by striking the second sentence, which relates to information from milk handlers.

(4) Section 10(b)(2) of such Act (7 U.S.C. 610(b)) is amended—

(A) by striking clause (i);

(B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(C) in clause (i) (as so redesignated), by striking “other commodity” in the first sentence and inserting “commodity”.

(5) Section 11 of such Act (7 U.S.C. 611) is amended by striking “and milk, and its products.”.

(6) Section 715 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1994 (Public Law 103–111; 107 Stat. 1079; 7 U.S.C. 608d note), is amended by striking the third proviso, which relates to information from milk handlers.

(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall take effect on January 1, 2001.