

112TH CONGRESS
2^D SESSION

H. R. 6233

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10, 2012

Received; read twice and referred to the Committee on Agriculture, Nutrition,
and Forestry

AN ACT

To make supplemental agricultural disaster assistance available for fiscal year 2012 with the costs of such assistance offset by changes to certain conservation programs, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Agricultural Disaster
3 Assistance Act of 2012”.

4 **SEC. 2. SUPPLEMENTAL AGRICULTURAL DISASTER ASSIST-**
5 **ANCE.**

6 (a) DEFINITIONS.—In this section:

7 (1) ELIGIBLE PRODUCER ON A FARM.—

8 (A) IN GENERAL.—The term “eligible pro-
9 ducer on a farm” means an individual or entity
10 described in subparagraph (B) that, as deter-
11 mined by the Secretary, assumes the production
12 and market risks associated with the agricul-
13 tural production of crops or livestock.

14 (B) DESCRIPTION.—An individual or enti-
15 ty referred to in subparagraph (A) is—

16 (i) a citizen of the United States;

17 (ii) a resident alien;

18 (iii) a partnership of citizens of the
19 United States; or

20 (iv) a corporation, limited liability cor-
21 poration, or other farm organizational
22 structure organized under State law.

23 (2) FARM-RAISED FISH.—The term “farm-
24 raised fish” means any aquatic species that is propa-
25 gated and reared in a controlled environment.

1 (3) LIVESTOCK.—The term “livestock” in-
2 cludes—

3 (A) cattle (including dairy cattle);

4 (B) bison;

5 (C) poultry;

6 (D) sheep;

7 (E) swine;

8 (F) horses; and

9 (G) other livestock, as determined by the
10 Secretary.

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of Agriculture.

13 (b) LIVESTOCK INDEMNITY PAYMENTS.—

14 (1) PAYMENTS.—For fiscal year 2012, the Sec-
15 retary shall use such sums as are necessary of the
16 funds of the Commodity Credit Corporation to make
17 livestock indemnity payments to eligible producers
18 on farms that have incurred livestock death losses in
19 excess of the normal mortality, as determined by the
20 Secretary, due to—

21 (A) attacks by animals reintroduced into
22 the wild by the Federal Government or pro-
23 tected by Federal law, including wolves and
24 avian predators; or

1 (B) adverse weather, as determined by the
2 Secretary, during the calendar year, including
3 losses due to hurricanes, floods, blizzards, dis-
4 ease, wildfires, extreme heat, and extreme cold.

5 (2) PAYMENT RATES.—Indemnity payments to
6 an eligible producer on a farm under paragraph (1)
7 shall be made at a rate of 75 percent of the market
8 value of the applicable livestock on the day before
9 the date of death of the livestock, as determined by
10 the Secretary.

11 (3) SPECIAL RULE FOR PAYMENTS MADE DUE
12 TO DISEASE.—The Secretary shall ensure that pay-
13 ments made to an eligible producer under paragraph
14 (1) are not made for the same livestock losses for
15 which compensation is provided pursuant to section
16 10407(d) of the Animal Health Protection Act (7
17 U.S.C. 8306(d)).

18 (c) LIVESTOCK FORAGE DISASTER PROGRAM.—

19 (1) DEFINITIONS.—In this subsection:

20 (A) COVERED LIVESTOCK.—

21 (i) IN GENERAL.—Except as provided
22 in clause (ii), the term “covered livestock”
23 means livestock of an eligible livestock pro-
24 ducer that, during the 60 days prior to the
25 beginning date of a qualifying drought or

1 fire condition, as determined by the Sec-
2 retary, the eligible livestock producer—

3 (I) owned;

4 (II) leased;

5 (III) purchased;

6 (IV) entered into a contract to
7 purchase;

8 (V) is a contract grower; or

9 (VI) sold or otherwise disposed of
10 due to qualifying drought conditions
11 during—

12 (aa) the current production
13 year; or

14 (bb) subject to paragraph
15 (3)(B)(ii), 1 or both of the 2 pro-
16 duction years immediately pre-
17 ceding the current production
18 year.

19 (ii) EXCLUSION.—The term “covered
20 livestock” does not include livestock that
21 were or would have been in a feedlot, on
22 the beginning date of the qualifying
23 drought or fire condition, as a part of the
24 normal business operation of the eligible

1 livestock producer, as determined by the
2 Secretary.

3 (B) DROUGHT MONITOR.—The term
4 “drought monitor” means a system for
5 classifying drought severity according to a
6 range of abnormally dry to exceptional drought,
7 as defined by the Secretary.

8 (C) ELIGIBLE LIVESTOCK PRODUCER.—

9 (i) IN GENERAL.—The term “eligible
10 livestock producer” means an eligible pro-
11 ducer on a farm that—

12 (I) is an owner, cash or share
13 lessee, or contract grower of covered
14 livestock that provides the pastureland
15 or grazing land, including cash-leased
16 pastureland or grazing land, for the
17 livestock;

18 (II) provides the pastureland or
19 grazing land for covered livestock, in-
20 cluding cash-leased pastureland or
21 grazing land that is physically located
22 in a county affected by drought;

23 (III) certifies grazing loss; and

1 (IV) meets all other eligibility re-
2 quirements established under this sub-
3 section.

4 (ii) EXCLUSION.—The term “eligible
5 livestock producer” does not include an
6 owner, cash or share lessee, or contract
7 grower of livestock that rents or leases
8 pastureland or grazing land owned by an-
9 other person on a rate-of-gain basis.

10 (D) NORMAL CARRYING CAPACITY.—The
11 term “normal carrying capacity”, with respect
12 to each type of grazing land or pastureland in
13 a county, means the normal carrying capacity,
14 as determined under paragraph (3)(D)(i), that
15 would be expected from the grazing land or
16 pastureland for livestock during the normal
17 grazing period, in the absence of a drought or
18 fire that diminishes the production of the graz-
19 ing land or pastureland.

20 (E) NORMAL GRAZING PERIOD.—The term
21 “normal grazing period”, with respect to a
22 county, means the normal grazing period during
23 the calendar year for the county, as determined
24 under paragraph (3)(D)(i).

1 (2) PROGRAM.—For fiscal year 2012, the Sec-
2 retary shall use such sums as are necessary of the
3 funds of the Commodity Credit Corporation to pro-
4 vide compensation for losses to eligible livestock pro-
5 ducers due to grazing losses for covered livestock
6 due to—

7 (A) a drought condition, as described in
8 paragraph (3); or

9 (B) fire, as described in paragraph (4).

10 (3) ASSISTANCE FOR LOSSES DUE TO DROUGHT
11 CONDITIONS.—

12 (A) ELIGIBLE LOSSES.—

13 (i) IN GENERAL.—An eligible livestock
14 producer may receive assistance under this
15 subsection only for grazing losses for cov-
16 ered livestock that occur on land that—

17 (I) is native or improved pasture-
18 land with permanent vegetative cover;

19 or

20 (II) is planted to a crop planted
21 specifically for the purpose of pro-
22 viding grazing for covered livestock.

23 (ii) EXCLUSIONS.—An eligible live-
24 stock producer may not receive assistance
25 under this subsection for grazing losses

1 that occur on land used for haying or graz-
2 ing under the conservation reserve pro-
3 gram established under subchapter B of
4 chapter 1 of subtitle D of title XII of the
5 Food Security Act of 1985 (16 U.S.C.
6 3831 et seq.).

7 (B) MONTHLY PAYMENT RATE.—

8 (i) IN GENERAL.—Except as provided
9 in clause (ii), the payment rate for assist-
10 ance under this paragraph for 1 month
11 shall, in the case of drought, be equal to
12 60 percent of the lesser of—

13 (I) the monthly feed cost for all
14 covered livestock owned or leased by
15 the eligible livestock producer, as de-
16 termined under subparagraph (C); or

17 (II) the monthly feed cost cal-
18 culated by using the normal carrying
19 capacity of the eligible grazing land of
20 the eligible livestock producer.

21 (ii) PARTIAL COMPENSATION.—In the
22 case of an eligible livestock producer that
23 sold or otherwise disposed of covered live-
24 stock due to drought conditions in 1 or
25 both of the 2 production years immediately

1 preceding the current production year, as
2 determined by the Secretary, the payment
3 rate shall be 80 percent of the payment
4 rate otherwise calculated in accordance
5 with clause (i).

6 (C) MONTHLY FEED COST.—

7 (i) IN GENERAL.—The monthly feed
8 cost shall equal the product obtained by
9 multiplying—

10 (I) 30 days;

11 (II) a payment quantity that is
12 equal to the feed grain equivalent, as
13 determined under clause (ii); and

14 (III) a payment rate that is equal
15 to the corn price per pound, as deter-
16 mined under clause (iii).

17 (ii) FEED GRAIN EQUIVALENT.—For
18 purposes of clause (i)(II), the feed grain
19 equivalent shall equal—

20 (I) in the case of an adult beef
21 cow, 15.7 pounds of corn per day; or

22 (II) in the case of any other type
23 of weight of livestock, an amount de-
24 termined by the Secretary that rep-
25 represents the average number of pounds

1 of corn per day necessary to feed the
2 livestock.

3 (iii) CORN PRICE PER POUND.—For
4 purposes of clause (i)(III), the corn price
5 per pound shall equal the quotient ob-
6 tained by dividing—

7 (I) the higher of—

8 (aa) the national average
9 corn price per bushel for the 12-
10 month period immediately pre-
11 ceeding March 1 of the year for
12 which the disaster assistance is
13 calculated; or

14 (bb) the national average
15 corn price per bushel for the 24-
16 month period immediately pre-
17 ceeding that March 1; by

18 (II) 56.

19 (D) NORMAL GRAZING PERIOD AND
20 DROUGHT MONITOR INTENSITY.—

21 (i) FSA COUNTY COMMITTEE DETER-
22 MINATIONS.—

23 (I) IN GENERAL.—The Secretary
24 shall determine the normal carrying
25 capacity and normal grazing period

1 for each type of grazing land or
2 pastureland in the county served by
3 the applicable committee.

4 (II) CHANGES.—No change to
5 the normal carrying capacity or nor-
6 mal grazing period established for a
7 county under subclause (I) shall be
8 made unless the change is requested
9 by the appropriate State and county
10 Farm Service Agency committees.

11 (ii) DROUGHT INTENSITY.—

12 (I) D2.—An eligible livestock
13 producer that owns or leases grazing
14 land or pastureland that is physically
15 located in a county that is rated by
16 the U.S. Drought Monitor as having a
17 D2 (severe drought) intensity in any
18 area of the county for at least 8 con-
19 secutive weeks during the normal
20 grazing period for the county, as de-
21 termined by the Secretary, shall be el-
22 ible to receive assistance under this
23 paragraph in an amount equal to 1
24 monthly payment using the monthly

1 payment rate determined under sub-
2 paragraph (B).

3 (II) D3.—An eligible livestock
4 producer that owns or leases grazing
5 land or pastureland that is physically
6 located in a county that is rated by
7 the U.S. Drought Monitor as having
8 at least a D3 (extreme drought) in-
9 tensity in any area of the county at
10 any time during the normal grazing
11 period for the county, as determined
12 by the Secretary, shall be eligible to
13 receive assistance under this para-
14 graph—

15 (aa) in an amount equal to
16 2 monthly payments using the
17 monthly payment rate deter-
18 mined under subparagraph (B);
19 or

20 (bb) if the county is rated as
21 having a D3 (extreme drought)
22 intensity in any area of the coun-
23 ty for at least 4 weeks during the
24 normal grazing period for the
25 county, or is rated as having a

1 D4 (exceptional drought) inten-
2 sity in any area of the county at
3 any time during the normal graz-
4 ing period, in an amount equal to
5 3 monthly payments using the
6 monthly payment rate deter-
7 mined under subparagraph (B).

8 (4) ASSISTANCE FOR LOSSES DUE TO FIRE ON
9 PUBLIC MANAGED LAND.—

10 (A) IN GENERAL.—An eligible livestock
11 producer may receive assistance under this
12 paragraph only if—

13 (i) the grazing losses occur on range-
14 land that is managed by a Federal agency;
15 and

16 (ii) the eligible livestock producer is
17 prohibited by the Federal agency from
18 grazing the normal permitted livestock on
19 the managed rangeland due to a fire.

20 (B) PAYMENT RATE.—The payment rate
21 for assistance under this paragraph shall be
22 equal to 50 percent of the monthly feed cost for
23 the total number of livestock covered by the
24 Federal lease of the eligible livestock producer,
25 as determined under paragraph (3)(C).

1 (C) PAYMENT DURATION.—

2 (i) IN GENERAL.—Subject to clause
3 (ii), an eligible livestock producer shall be
4 eligible to receive assistance under this
5 paragraph for the period—

6 (I) beginning on the date on
7 which the Federal agency excludes the
8 eligible livestock producer from using
9 the managed rangeland for grazing;
10 and

11 (II) ending on the last day of the
12 Federal lease of the eligible livestock
13 producer.

14 (ii) LIMITATION.—An eligible livestock
15 producer may only receive assistance under
16 this paragraph for losses that occur on not
17 more than 180 days per year.

18 (5) NO DUPLICATIVE PAYMENTS.—An eligible
19 livestock producer may elect to receive assistance for
20 grazing or pasture feed losses due to drought condi-
21 tions under paragraph (3) or fire under paragraph
22 (4), but not both for the same loss, as determined
23 by the Secretary.

24 (d) EMERGENCY ASSISTANCE FOR LIVESTOCK,
25 HONEY BEES, AND FARM-RAISED FISH.—

1 (1) IN GENERAL.—For fiscal year 2012, the
2 Secretary shall use not more than \$20,000,000 of
3 the funds of the Commodity Credit Corporation to
4 provide emergency relief to eligible producers of live-
5 stock, honey bees, and farm-raised fish to aid in the
6 reduction of losses due to disease (including cattle
7 tick fever), adverse weather, or other conditions,
8 such as blizzards and wildfires, as determined by the
9 Secretary, that are not covered under subsection (b)
10 or (c).

11 (2) USE OF FUNDS.—Funds made available
12 under this subsection shall be used to reduce losses
13 caused by feed or water shortages, disease, or other
14 factors as determined by the Secretary.

15 (3) AVAILABILITY OF FUNDS.—Any funds made
16 available under this subsection shall remain available
17 until expended.

18 (e) TREE ASSISTANCE PROGRAM.—

19 (1) DEFINITIONS.—In this subsection:

20 (A) ELIGIBLE ORCHARDIST.—The term
21 “eligible orchardist” means a person that pro-
22 duces annual crops from trees for commercial
23 purposes.

24 (B) NATURAL DISASTER.—The term “nat-
25 ural disaster” means plant disease, insect infes-

1 tation, drought, fire, freeze, flood, earthquake,
2 lightning, or other occurrence, as determined by
3 the Secretary.

4 (C) NURSERY TREE GROWER.—The term
5 “nursery tree grower” means a person who pro-
6 duces nursery, ornamental, fruit, nut, or Christ-
7 mas trees for commercial sale, as determined by
8 the Secretary.

9 (D) TREE.—The term “tree” includes a
10 tree, bush, and vine.

11 (2) ELIGIBILITY.—

12 (A) LOSS.—Subject to subparagraph (B),
13 for fiscal year 2012, the Secretary shall use
14 such sums as are necessary of the funds of the
15 Commodity Credit Corporation to provide as-
16 sistance—

17 (i) under paragraph (3) to eligible or-
18 chardists and nursery tree growers that
19 planted trees for commercial purposes but
20 lost the trees as a result of a natural dis-
21 aster, as determined by the Secretary; and

22 (ii) under paragraph (3)(B) to eligible
23 orchardists and nursery tree growers that
24 have a production history for commercial
25 purposes on planted or existing trees but

1 lost the trees as a result of a natural dis-
2 aster, as determined by the Secretary.

3 (B) LIMITATION.—An eligible orchardist
4 or nursery tree grower shall qualify for assist-
5 ance under subparagraph (A) only if the tree
6 mortality of the eligible orchardist or nursery
7 tree grower, as a result of damaging weather or
8 related condition, exceeds 15 percent (adjusted
9 for normal mortality).

10 (3) ASSISTANCE.—Subject to paragraph (4),
11 the assistance provided by the Secretary to eligible
12 orchardists and nursery tree growers for losses de-
13 scribed in paragraph (2) shall consist of—

14 (A)(i) reimbursement of 70 percent of the
15 cost of replanting trees lost due to a natural
16 disaster, as determined by the Secretary, in ex-
17 cess of 15 percent mortality (adjusted for nor-
18 mal mortality); or

19 (ii) at the option of the Secretary, suffi-
20 cient seedlings to reestablish a stand; and

21 (B) reimbursement of 50 percent of the
22 cost of pruning, removal, and other costs in-
23 curred by an eligible orchardist or nursery tree
24 grower to salvage existing trees or, in the case
25 of tree mortality, to prepare the land to replant

1 trees as a result of damage or tree mortality
2 due to a natural disaster, as determined by the
3 Secretary, in excess of 15 percent damage or
4 mortality (adjusted for normal tree damage and
5 mortality).

6 (4) LIMITATIONS ON ASSISTANCE.—

7 (A) DEFINITIONS OF LEGAL ENTITY AND
8 PERSON.—In this paragraph, the terms “legal
9 entity” and “person” have the meaning given
10 those terms in section 1001(a) of the Food Se-
11 curity Act of 1985 (7 U.S.C. 1308(a)).

12 (B) AMOUNT.—The total amount of pay-
13 ments received, directly or indirectly, by a per-
14 son or legal entity (excluding a joint venture or
15 general partnership) under this subsection may
16 not exceed \$100,000 for any crop year, or an
17 equivalent value in tree seedlings.

18 (C) ACRES.—The total quantity of acres
19 planted to trees or tree seedlings for which a
20 person or legal entity shall be entitled to receive
21 payments under this subsection may not exceed
22 500 acres.

23 (f) PAYMENT LIMITATIONS.—

24 (1) DEFINITIONS OF LEGAL ENTITY AND PER-
25 SON.—In this subsection, the terms “legal entity”

1 and “person” have the meaning given those terms in
2 section 1001(a) of the Food Security Act of 1985 (7
3 U.S.C. 1308(a)).

4 (2) AMOUNT.—The total amount of disaster as-
5 sistance payments received, directly or indirectly, by
6 a person or legal entity (excluding a joint venture or
7 general partnership) under this section (excluding
8 payments received under subsection (e)) may not ex-
9 ceed \$100,000 for any crop year.

10 (3) AGI LIMITATION.—Section 1001D of the
11 Food Security Act of 1985 (7 U.S.C. 1308–3a) or
12 any successor provision shall apply with respect to
13 assistance provided under this section.

14 (4) DIRECT CONTRIBUTION.—Subsections (e)
15 and (f) of section 1001 of the Food Security Act of
16 1985 (7 U.S.C. 1308) or any successor provisions
17 relating to direct contribution shall apply with respect
18 to assistance provided under this section.

19 (g) APPLICATION.—This section shall take effect as
20 of October 1, 2011, and apply to losses that are incurred
21 as the result of a disaster, adverse weather, or other envi-
22 ronmental condition that occurs on or before September
23 30, 2012, as determined by the Secretary.

1 (h) DETERMINATIONS BY SECRETARY.—A deter-
2 mination made by the Secretary under this section shall
3 be final and conclusive.

4 (i) REGULATIONS.—

5 (1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, not later than 90 days after
7 the date of enactment of this Act, the Secretary and
8 the Commodity Credit Corporation, as appropriate,
9 shall promulgate such regulations as are necessary
10 to implement this section.

11 (2) PROCEDURE.—The promulgation of the reg-
12 ulations and administration of this section shall be
13 made without regard to—

14 (A) the notice and comment provisions of
15 section 553 of title 5, United States Code;

16 (B) chapter 35 of title 44, United States
17 Code (commonly known as the “Paperwork Re-
18 duction Act”); and

19 (C) the Statement of Policy of the Sec-
20 retary of Agriculture effective July 24, 1971
21 (36 Fed. Reg. 13804), relating to notices of
22 proposed rulemaking and public participation in
23 rulemaking.

24 (3) CONGRESSIONAL REVIEW OF AGENCY RULE-
25 MAKING.—In carrying out this subsection, the Sec-

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

3 **SEC. 3. MODIFICATION OF CERTAIN CONSERVATION PRO-**
4 **GRAMS.**

5 (a) CONSERVATION STEWARDSHIP PROGRAM.—Sec-
6 tion 1238G(d)(1) of the Food Security Act of 1985 (16
7 U.S.C. 3838g(d)(1)) is amended by inserting “(except
8 that for fiscal year 2013, the Secretary shall, to the max-
9 imum extent practicable, enroll in the program an addi-
10 tional 11,000,000 acres)” before the semicolon.

11 (b) ENVIRONMENTAL QUALITY INCENTIVES PRO-
12 GRAM.—Section 1241(a)(6) of the Food Security Act of
13 1985 (16 U.S.C. 3841(a)(6)) is amended—

14 (1) in subparagraph (D), by striking “; and”
15 and inserting a semicolon; and

16 (2) by striking subparagraph (E) and inserting
17 the following:

18 “(E) \$1,750,000,000 in fiscal year 2012;

19 “(F) \$1,400,000,000 in fiscal year 2013;

20 and

1 “(G) \$1,750,000,000 in fiscal year 2014.”.

Passed the House of Representatives August 2,
2012.

Attest:

KAREN L. HAAS,

Clerk.