

110TH CONGRESS  
1ST SESSION

# H. R. 419

To provide assistance to agricultural producers for crop and livestock losses in 2005, 2006, or 2007 as a result of natural disasters, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 2007

Mr. LUCAS introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on the Budget, 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

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## A BILL

To provide assistance to agricultural producers for crop and livestock losses in 2005, 2006, or 2007 as a result of natural disasters, 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 “Natural Disaster Relief Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—AGRICULTURAL PRODUCTION LOSSES

Sec. 101. Crop disaster assistance.

Sec. 102. Livestock assistance.

Sec. 103. Reduction in payments.

TITLE II—FARM SERVICE AGENCY

Sec. 201. Funding for additional personnel.

TITLE III—MISCELLANEOUS

Sec. 301. Regulations.

Sec. 302. Emergency designation.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

7 (2) **DISASTER COUNTY.**—The term “disaster  
8 county” means—

9 (A) a county included in the geographic  
10 area covered by a natural disaster declaration;  
11 and

12 (B) each county contiguous to a county de-  
13 scribed in subparagraph (A).

14 (3) **HURRICANE-AFFECTED COUNTY.**—The term  
15 “hurricane-affected county” means—

16 (A) a county included in the geographic  
17 area covered by a natural disaster declaration

1 related to Hurricane Katrina, Hurricane Rita,  
2 Hurricane Wilma, or a related condition; and

3 (B) each county contiguous to a county de-  
4 scribed in subparagraph (A).

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

11 (5) NATURAL DISASTER DECLARATION.—The  
12 term “natural disaster declaration” means—

13 (A) a natural disaster declared by the Sec-  
14 retary during calendar year 2005, 2006, or  
15 2007 under section 321(a) of the Consolidated  
16 Farm and Rural Development Act (7 U.S.C.  
17 1961(a)); or

18 (B) a major disaster or emergency des-  
19 ignated by the President during calendar year  
20 2005, 2006, or 2007 under the Robert T. Staf-  
21 ford Disaster Relief and Emergency Assistance  
22 Act (42 U.S.C. 5121 et seq.).

23 (6) NONINSURABLE COMMODITY.—The term  
24 “noninsurable commodity” means a crop for which  
25 the producers on a farm are eligible to obtain assist-

1       ance under section 196 of the Federal Agriculture  
2       Improvement and Reform Act of 1996 (7 U.S.C.  
3       7333).

4               (7) SECRETARY.—The term “Secretary” means  
5       the Secretary of Agriculture.

6                   **TITLE I—AGRICULTURAL**  
7                   **PRODUCTION LOSSES**

8       **SEC. 101. CROP DISASTER ASSISTANCE.**

9               (a) ASSISTANCE AVAILABLE.—The Secretary shall  
10       use such sums as are necessary of funds of the Commodity  
11       Credit Corporation to make emergency financial assist-  
12       ance available to producers on a farm, other than pro-  
13       ducers of sugar cane or sugar beets, that incurred quali-  
14       fying quantity or quality losses for the 2005, 2006, or  
15       2007 crop due to damaging weather or any related condi-  
16       tion (including losses due to crop diseases, insects, and  
17       delayed harvest), as determined by the Secretary, with re-  
18       spect to which a natural disaster declaration is made.

19               (b) ELECTION OF CROP YEAR.—If a producer in-  
20       curred qualifying crop losses in more than one of the  
21       2005, 2006, or 2007 crop years, the producer shall elect  
22       to receive assistance under this section for losses incurred  
23       in only one of such crop years. The producer may not re-  
24       ceive assistance under this section for more than one crop  
25       year.

1 (c) ADMINISTRATION.—

2 (1) IN GENERAL.—Except as provided in para-  
3 graph (2), the Secretary shall make assistance avail-  
4 able under this section in the same manner as pro-  
5 vided under section 815 of the Agriculture, Rural  
6 Development, Food and Drug Administration and  
7 Related Agencies Appropriations Act, 2001 (Public  
8 Law 106–387; 114 Stat. 1549A–55), including  
9 using the same loss thresholds for quantity and eco-  
10 nomic losses as were used in administering that sec-  
11 tion, except that the payment rate shall be 50 per-  
12 cent of the established price, instead of 65 percent.

13 (2) LOSS THRESHOLDS FOR QUALITY  
14 LOSSES.—In the case of a payment for quality loss  
15 for a crop under subsection (a), the loss thresholds  
16 for quality loss for the crop shall be determined  
17 under subsection (d).

18 (d) QUALITY LOSSES.—

19 (1) IN GENERAL.—Subject to paragraph (3),  
20 the amount of a payment made to producers on a  
21 farm for a quality loss for a crop under subsection  
22 (a) shall be equal to the amount obtained by multi-  
23 plying—

24 (A) 65 percent of the payment quantity de-  
25 termined under paragraph (2); by

1 (B) 50 percent of the payment rate deter-  
2 mined under paragraph (3).

3 (2) PAYMENT QUANTITY.—For the purpose of  
4 paragraph (1)(A), the payment quantity for quality  
5 losses for a crop of a commodity on a farm shall  
6 equal the lesser of—

7 (A) the actual production of the crop af-  
8 fected by a quality loss of the commodity on the  
9 farm; or

10 (B) the quantity of expected production of  
11 the crop affected by a quality loss of the com-  
12 modity on the farm, using the formula used by  
13 the Secretary to determine quantity losses for  
14 the crop of the commodity under subsection (a).

15 (3) PAYMENT RATE.—For the purpose of para-  
16 graph (1)(B) and in accordance with paragraphs (5)  
17 and (6), the payment rate for quality losses for a  
18 crop of a commodity on a farm shall be equal to the  
19 difference between—

20 (A) the per unit market value that the  
21 units of the crop affected by the quality loss  
22 would have had if the crop had not suffered a  
23 quality loss; and

24 (B) the per unit market value of the units  
25 of the crop affected by the quality loss.

1           (4) ELIGIBILITY.—For producers on a farm to  
2           be eligible to obtain a payment for a quality loss for  
3           a crop under subsection (a), the amount obtained by  
4           multiplying the per unit loss determined under para-  
5           graph (1) by the number of units affected by the  
6           quality loss shall be at least 25 percent of the value  
7           that all affected production of the crop would have  
8           had if the crop had not suffered a quality loss.

9           (5) MARKETING CONTRACTS.—In the case of  
10          any production of a commodity that is sold pursuant  
11          to 1 or more marketing contracts (regardless of  
12          whether the contract is entered into by the pro-  
13          ducers on the farm before or after harvest) and for  
14          which appropriate documentation exists, the quan-  
15          tity designated in the contracts shall be eligible for  
16          quality loss assistance based on the 1 or more prices  
17          specified in the contracts.

18          (6) OTHER PRODUCTION.—For any additional  
19          production of a commodity for which a marketing  
20          contract does not exist or for which production con-  
21          tinues to be owned by the producer, quality losses  
22          shall be based on the average local market discounts  
23          for reduced quality, as determined by the appro-  
24          priate State committee of the Farm Service Agency.

1           (7) QUALITY ADJUSTMENTS AND DISCOUNTS.—

2           The appropriate State committee of the Farm Serv-  
3           ice Agency shall identify the appropriate quality ad-  
4           justment and discount factors to be considered in  
5           carrying out this subsection, including—

6                   (A) the average local discounts actually ap-  
7                   plied to a crop; and

8                   (B) the discount schedules applied to loans  
9                   made by the Farm Service Agency or crop in-  
10                  surance coverage under the Federal Crop Insur-  
11                  ance Act (7 U.S.C. 1501 et seq.).

12           (8) ELIGIBLE PRODUCTION.—The Secretary  
13           shall carry out this subsection in a fair and equitable  
14           manner for all eligible production, including the pro-  
15           duction of fruits and vegetables, other specialty  
16           crops, and field crops.

17           (e) PAYMENT LIMITATIONS.—

18                   (1) LIMIT ON AMOUNT OF ASSISTANCE.—As-  
19                   sistance provided under this section to a producer  
20                   for losses to a crop, together with the amounts speci-  
21                   fied in paragraph (2) applicable to the same crop,  
22                   may not exceed 95 percent of what the value of the  
23                   crop would have been in the absence of the losses,  
24                   as estimated by the Secretary.



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

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

11                  (B) The value of the crop that was not lost  
12                  (if any), as estimated by the Secretary

13           (f) ELIGIBILITY FOR ASSISTANCE.—

14                  (1) IN GENERAL.—Except as provided in para-  
15                  graph (2), the producers on a farm shall not be eli-  
16                  gible for assistance under this section with respect  
17                  to losses to an insurable commodity or noninsurable  
18                  commodity if the producers on the farm—

19                          (A) in the case of an insurable commodity,  
20                          did not obtain a policy or plan of insurance for  
21                          the insurable commodity under the Federal  
22                          Crop Insurance Act (7 U.S.C. 1501 et seq.) for  
23                          the crop incurring the losses;

24                          (B) in the case of a noninsurable com-  
25                          modity, did not file the required paperwork, and

1 pay the administrative fee by the applicable  
2 State filing deadline, for the noninsurable com-  
3 modity under section 196 of the Federal Agri-  
4 culture Improvement and Reform Act of 1996  
5 (7 U.S.C. 7333) for the crop incurring the  
6 losses;

7 (C) had average adjusted gross income (as  
8 defined by section 1001D(a) of the Food Secu-  
9 rity Act of 1985 (7 U.S.C. 1308–3a(a)), of  
10 greater than \$2,500,000 in 2004; or

11 (D) were not in compliance with highly  
12 erodible land conservation and wetland con-  
13 servation provisions.

14 (2) CONTRACT WAIVER.—The Secretary may  
15 waive paragraph (1) with respect to the producers  
16 on a farm if the producers enter into a contract with  
17 the Secretary under which the producers agree—

18 (A) in the case of an insurable commodity,  
19 to obtain a policy or plan of insurance under  
20 the Federal Crop Insurance Act (7 U.S.C. 1501  
21 et seq.) providing additional coverage for the in-  
22 surable commodity for each of the next 2 crops,  
23 at a coverage level that provides—

1 (i) not less than 65 percent of the ac-  
2 tual production history for the crop pro-  
3 duced on the farm; and

4 (ii) 100 percent of the expected mar-  
5 ket price or a comparable coverage (as de-  
6 termined by the Federal Crop Insurance  
7 Corporation); and

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

15 (3) EFFECT OF VIOLATION.—In the event of  
16 the violation of a contract under paragraph (2) by  
17 a producer, the producer shall reimburse the Sec-  
18 retary for the full amount of the assistance provided  
19 to the producer under this section.

20 (g) TIMING.—

21 (1) IN GENERAL.—Subject to paragraph (2),  
22 the Secretary shall make payments to producers on  
23 a farm for a crop under this section not later than  
24 60 days after the date the producers on the farm

1 submit to the Secretary a completed application for  
2 the payments.

3 (2) INTEREST.—If the Secretary does not make  
4 payments to the producers on a farm by the date de-  
5 scribed in paragraph (1), the Secretary shall pay to  
6 the producers on a farm interest on the payments at  
7 a rate equal to the current (as of the sign-up dead-  
8 line established by the Secretary) market yield on  
9 outstanding, marketable obligations of the United  
10 States with maturities of 30 years.

11 **SEC. 102. LIVESTOCK ASSISTANCE.**

12 (a) LIVESTOCK COMPENSATION PROGRAM.—

13 (1) USE OF COMMODITY CREDIT CORPORATION  
14 FUNDS.—The Secretary shall use funds of the Com-  
15 modity Credit Corporation to carry out the 2002  
16 Livestock Compensation Program announced by the  
17 Secretary on October 10, 2002 (67 Fed. Reg.  
18 63070), to provide compensation for livestock losses  
19 during calendar years 2005, 2006, and 2007 for  
20 losses that occurred before the date of the enactment  
21 of this Act (including wildfire disaster losses in the  
22 State of Texas and other States and losses due to  
23 blizzard in the States of Colorado, Kansas, Ne-  
24 braska, New Mexico, and Oklahoma) due to a dis-  
25 aster, as determined by the Secretary, except that

1 the payment rate shall be 75 percent of the payment  
2 rate established for the 2002 Livestock Compensa-  
3 tion Program.

4 (2) ELIGIBLE APPLICANTS.—In carrying out  
5 the program described in paragraph (1), the Sec-  
6 retary shall provide assistance to any applicant  
7 that—

8 (A)(i) conducts a livestock operation that  
9 is located in a disaster county, including any  
10 applicant conducting a livestock operation with  
11 eligible livestock (within the meaning of the  
12 livestock assistance program under section  
13 101(b) of division B of Public Law 108–324  
14 (118 Stat. 1234)); or

15 (ii) produces an animal described in sec-  
16 tion 10806(a)(1) of the Farm Security and  
17 Rural Investment Act of 2002 (21 U.S.C.  
18 321d(a)(1)); and

19 (B) meets all other eligibility requirements  
20 established by the Secretary for the program.

21 (3) ELECTION OF LOSSES.—If a producer in-  
22 curred livestock losses in more than one of the 2005,  
23 2006, or 2007 calendar years, the producer shall  
24 elect to receive payments under this subsection for  
25 losses incurred in only one of such calendar years.

1 The producer may not receive payments under this  
2 subsection for more than one calendar year.

3 (4) MITIGATION.—In determining the eligibility  
4 for or amount of payments for which a producer is  
5 eligible under the livestock compensation program,  
6 the Secretary shall not penalize a producer that  
7 takes actions (recognizing disaster conditions) that  
8 reduce the average number of livestock the producer  
9 owned for grazing during the production year for  
10 which assistance is being provided.

11 (5) LIMITATION.—The Secretary shall ensure,  
12 to the maximum extent practicable, that no producer  
13 on a farm receives duplicative payments under this  
14 subsection and another Federal program with re-  
15 spect to any loss.

16 (b) LIVESTOCK INDEMNITY PAYMENTS.—

17 (1) IN GENERAL.—The Secretary shall use such  
18 sums as are necessary of funds of the Commodity  
19 Credit Corporation to make livestock indemnity pay-  
20 ments to producers on farms that have incurred live-  
21 stock losses during calendar years 2005, 2006, and  
22 2007 for losses that occurred prior to the date of en-  
23 actment of this Act (including wildfire disaster  
24 losses in the State of Texas and other States and  
25 losses due to blizzard in the States of Colorado,

1 Kansas, Nebraska, New Mexico, and Oklahoma) due  
2 to a disaster, as determined by the Secretary, includ-  
3 ing losses due to hurricanes, floods, anthrax,  
4 wildfires, and blizzards.

5 (2) ELECTION OF LOSSES.—If a producer in-  
6 curred livestock losses in more than one of the 2005,  
7 2006, or 2007 calendar years, the producer shall  
8 elect to receive payments under this subsection for  
9 losses incurred in only one of such calendar years.  
10 The producer may not receive payments under this  
11 subsection for more than one calendar year.

12 (3) PAYMENT RATES.—Indemnity payments to  
13 a producer on a farm under paragraph (1) shall be  
14 made at a rate of not less than 30 percent of the  
15 market value of the applicable livestock on the day  
16 before the date of death of the livestock, as deter-  
17 mined by the Secretary.

18 (c) LIMIT ON AMOUNT OF ASSISTANCE.—The Sec-  
19 retary shall ensure, to the maximum extent practicable,  
20 that no producer on a farm receives duplicative payments  
21 under this section and any other Federal program for the  
22 same loss.

23 **SEC. 103. REDUCTION IN PAYMENTS.**

24 The amount of any payment for which a producer is  
25 eligible under this title shall be reduced by any amount

1 received by the producer for the same loss or any similar  
2 loss under—

3 (1) the Department of Defense, Emergency  
4 Supplemental Appropriations to Address Hurricanes  
5 in the Gulf of Mexico, and Pandemic Influenza Act,  
6 2006 (Public Law 109–148; 119 Stat. 2680); or

7 (2) an agricultural disaster assistance provision  
8 contained in the announcement of the Secretary on  
9 January 26, 2006.

## 10 **TITLE II—FARM SERVICE** 11 **AGENCY**

### 12 **SEC. 201. FUNDING FOR ADDITIONAL PERSONNEL.**

13 The Secretary shall use \$23,000,000 of funds of the  
14 Commodity Credit Corporation to hire additional County  
15 Farm Service Agency personnel—

16 (1) to expedite the implementation of, and de-  
17 livery under, the agricultural disaster and economic  
18 assistance programs under this Act; and

19 (2) as the Secretary determines to be necessary  
20 to carry out other agriculture and disaster assist-  
21 ance programs.

## 22 **TITLE III—MISCELLANEOUS**

### 23 **SEC. 301. REGULATIONS.**

24 (a) IN GENERAL.—The Secretary may promulgate  
25 such regulations as are necessary to implement this Act.



1 (b) PROCEDURE.—The promulgation of the regula-  
2 tions and administration of this Act shall be made without  
3 regard to—

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

6 (2) the Statement of Policy of the Secretary of  
7 Agriculture effective July 24, 1971 (36 Fed. Reg.  
8 13804), relating to notices of proposed rulemaking  
9 and public participation in rulemaking; and

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

13 (c) CONGRESSIONAL REVIEW OF AGENCY RULE-  
14 MAKING.—In carrying out this section, the Secretary shall  
15 use the authority provided under section 808 of title 5,  
16 United States Code.

17 **SEC. 302. EMERGENCY DESIGNATION.**

18 The amounts provided under this Act are designated  
19 as an emergency requirement pursuant to section 501 of  
20 H. Con. Res. 376 (109th Congress), as made applicable  
21 to the House of Representatives by section 511(a)(4) of  
22 H. Res. 6 (110th Congress).

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